

J5DKKOU1

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK  
3 -----x

4 UNITED STATES OF AMERICA

5 v.

17 CR 417 (AKH)

6 ALI KOURANI,

Jury Trial

7 Defendant.  
-----x

8 New York, N.Y.  
9 May 13, 2019  
10 10:30 a.m.

11 Before:

12 HON. ALVIN K. HELLERSTEIN,

13 District Judge  
14 And A Jury

15 APPEARANCES

16 GEOFFREY S. BERMAN  
17 United States Attorney for the  
18 Southern District of New York  
19 AMANDA L. HOULE  
EMIL J. BOVE III  
Assistant United States Attorneys

20 ALEXEI SCHACHT  
21 Attorney for Defendant

22 ALSO PRESENT: KERI SHANNON, Special Agent FBI  
23 MARGARET SHIELDS, Paralegal, US Attorney's Office

J5DKKOU1

Costello - Direct

1 (In open court; jury present)

2 (Trial resumed)

3 THE COURT: Good morning, members of the jury. Be  
4 seated, everyone. I'm sorry that I was late this morning. I  
5 know that I delayed you because it's now 10:35. Excuse me.

6 Ms. Houle.

7 MS. HOULE: Your Honor, the government calls Special  
8 Agent Joseph Costello.

9 THE COURT: Okay.

10 Good morning.

11 Pay attention to the oath, please.

12 JOSEPH COSTELLO,

13 called as a witness by the Government,

14 having been duly sworn, testified as follows:

15 THE WITNESS: Joseph Costello, C-o-s-t-e-l-l-o.

16 THE COURT: You may inquire, Ms. Houle.

17 MS. HOULE: Thank you, your Honor.

18 Your Honor, before I begin, I would just note for the  
19 record that this is the witness through whom the government  
20 will offer one of the defendant's proffer statements, and  
21 that's on the consent of the defense.

22 THE COURT: Okay.

23 DIRECT EXAMINATION

24 BY MS. HOULE:

25 Q. Good morning. Where do you work?

J5DKKOU1

Costello - Direct

1 A. I'm a special agent at the FBI.

2 Q. How long have you worked for the FBI?

3 A. Approximately four and a half years.

4 Q. What did you do before you joined the FBI?

5 A. I was a special agent at the United States Department of  
6 State, Diplomatic Security Service.

7 Q. To what squad are you currently assigned at the FBI?

8 A. I'm currently assigned to C5, organized crime.

9 Q. How long have you been on that squad?

10 A. Just about a month.

11 Q. What did you do before you were on that squad?

12 A. I was assigned to CT9.

13 Q. What is the focus of CT9?

14 A. CT9 is focused on the Iranian threat network and Hezbollah.

15 Q. How long were you on squad CT9?

16 A. Approximately three and a half years.

17 Q. Do you know a man named Ali Kourani?

18 A. I do.

19 Q. Do you see him here in the courtroom today?

20 A. I do.

21 Q. If you could identify him based on a piece of clothing that  
22 he's wears and where he's sitting?

23 A. Sitting over there, in the white shirt.

24 THE COURT: Let the record reflect that that's the  
25 identification of the defendant.

J5DKKOU1

Costello - Direct

1 MS. HOULE: Thank you, your Honor.

2 BY MS. HOULE:

3 Q. Directing your attention to August 9th, 2016, did you meet  
4 with the defendant that day?

5 A. I did.

6 Q. Was that the first time that you met the defendant?

7 A. Yes.

8 Q. And where was that meeting?

9 A. The United States Embassy in Beirut, Lebanon.

10 Q. Why had you traveled to Beirut?

11 A. To interview the defendant.

12 Q. Why was the defendant at the embassy that day?

13 A. The defendant had previously come to the embassy seeking to  
14 meet with the U.S. Government, and we had followed up to meet  
15 with them then.

16 Q. Who was present for your meeting with the defendant?

17 A. Myself, the defendant, Special Agent Gary Battista from my  
18 squad, and a member of a U.S. intelligence agency.

19 Q. How did your meeting with the defendant begin?

20 A. The meeting began when the defendant was brought into the  
21 room. He saw Special Agent Battista and stated he was  
22 unsurprised to see him there.

23 Q. During this meeting, did you discuss Hezbollah with the  
24 defendant?

25 A. Yes.

J5DKKOU1

Costello - Direct

1 Q. What did the defendant say?

2 THE COURT: Let's just proceed and find out who said  
3 what. Let the meeting develop.

4 BY MS. HOULE:

5 Q. How did the meeting proceed?

6 A. The defendant stated he was not a member of Hezbollah.

7 THE COURT: How did it start? Who started the  
8 meeting? Who started the conversation?

9 THE WITNESS: I can't recall exactly, your Honor, but  
10 the defendant stated he was unsurprised to see Special Agent  
11 Battista.

12 THE COURT: Did he say why?

13 THE WITNESS: He had previously met with Special Agent  
14 Battista in the United States.

15 THE COURT: What went on then? What followed?

16 THE WITNESS: We asked the defendant if he would be  
17 willing to discuss with us his involvement with Hezbollah.

18 THE COURT: Go ahead, Ms. Houle.

19 And he said?

20 THE WITNESS: The defendant stated he was not  
21 affiliated with Hezbollah, but he did have family members who  
22 were in Hezbollah.

23 BY MS. HOULE:

24 Q. Did he identify any particular family members?

25 A. Yes.

J5DKKOU1

Costello - Direct

1 Q. Which ones?

2 A. He stated his brother, Kassem Kourani, was the face of  
3 Hezbollah, the political leader of Hezbollah in his home  
4 village of Yater in South Lebanon. He identified Maher  
5 Kourani, I believe a cousin of the defendant, as a member of  
6 Hezbollah, and, finally, he identified another cousin -- I  
7 believe a cousin, excuse me -- Mahmoud Kourani, who was a  
8 member of Hezbollah, who the defendant identified as having  
9 been arrested by the FBI in the mid-2000s, in Detroit, for his  
10 involvement with Hezbollah.

11 Q. How did this meeting end?

12 A. The meeting ended with the defendant stating he would be  
13 willing to meet with the FBI again.

14 Q. Did you say anything in response?

15 A. We stated we'd be unwilling to meet with the defendant  
16 unless he was willing to discuss his involvement, his personal  
17 involvement, with Hezbollah. The defendant stated he'd meet  
18 with us for hours. We stated unless he's going to discuss  
19 Hezbollah and his involvement, we'd be unwilling to meet.

20 Q. Directing your attention to March 22nd --

21 THE COURT: So what happened then, the meeting broke  
22 up?

23 THE WITNESS: Yes, sir. Yes, your Honor.

24 THE COURT: Was there anything set for renewal or  
25 continuation?

J5DKKOU1

Costello - Direct

1                   THE WITNESS: No, your Honor. We stated to the  
2 defendant that our investigation would be ongoing.

3                   THE COURT: How long did this meeting take place?

4                   THE WITNESS: Approximately an hour.

5                   THE COURT: An hour?

6                   THE WITNESS: Yes, sir.

7 BY MS. HOULE:

8 Q. Directing your attention to March 22nd, 2017, did you  
9 participate in a phone call that day with an attorney for the  
10 defendant?

11 A. Yes.

12 Q. What is the name of that attorney?

13 A. Mark Denbeaux.

14 Q. Did anyone else participate in this call?

15 A. Yes.

16 Q. Who?

17 A. Special Agent Keri Shannon from my squad.

18 Q. How did the call proceed?

19                   THE COURT: Spell that.

20                   THE WITNESS: Sure. Keri, K-e-r-i, last name Shannon,  
21 common spelling, S-h-a-n-n-o-n.

22                   THE COURT: She was a witness -- she was a witness  
23 here, right, Ms. Houle?

24                   MS. HOULE: Yes, your Honor.

25 BY MS. HOULE:

J5DKKOU1

Costello - Direct

1 Q. What happened on that call?

2 A. Mr. Denbeaux stated that he represented Mr. Kourani. He  
3 asked us a couple of questions.

4 Q. What were those questions?

5 A. The first of which was if Mr. Kourani was the subject of an  
6 FBI investigation.

7 Q. Did you respond to that?

8 A. I did. I stated it is the policy of the FBI not to comment  
9 on the status of ongoing investigations.

10 Q. Did Mr. Denbeaux respond to you?

11 A. He did. Mr. Denbeaux stated he did not think Mr. Kourani  
12 cared one way or the other if he was the subject of an  
13 investigation. I then told Mr. Denbeaux that he could ask  
14 Mr. Kourani why the FBI was interested in speaking with him.

15 Q. Did Mr. Denbeaux have any other questions?

16 A. Yes.

17 Q. What?

18 A. Mr. Denbeaux asked if the meetings with the FBI would be  
19 kept confidential.

20 Q. How did you respond?

21 A. We said yes.

22 Q. Did Mr. Denbeaux ask any additional questions in connection  
23 with that confidentiality?

24 A. Not that I recall, no.

25 Q. Directing your attention to March 23rd, 2017, did you meet

J5DKKOU1

Costello - Direct

1 with the defendant that day?

2 A. Yes.

3 Q. Where was that?

4 A. Seton Hall University Law School.

5 Q. Who was present for that meeting?

6 A. Myself, Special Agent Keri Shannon, the defendant, and  
7 Mr. Denbeaux.

8 Q. How did the meeting begin?

9 A. The meeting began by us, myself and Special Agent Shannon,  
10 admonishing the defendant that he should tell us the truth  
11 regarding his involvement with Hezbollah and to lie to the FBI  
12 is a crime.

13 THE COURT: Maybe I missed that, but in Denbeaux's  
14 call of March 21 -- March 22, did it end with a request for a  
15 meeting and granting of a meeting?

16 THE WITNESS: Yes, your Honor.

17 THE COURT: How did it end? Tell me about that.

18 THE WITNESS: To the best of my recollection, we may  
19 have already coordinated the meeting for the 23rd, and the 22nd  
20 was just a confirmation. I don't recall precisely, your Honor,  
21 but, yes, there was something along the lines of, see you  
22 tomorrow.

23 THE COURT: Who asked for the meeting?

24 THE WITNESS: Mr. Denbeaux had initially contacted the  
25 FBI on behalf of Mr. Kourani.

J5DKKOU1

Costello - Direct

1                   THE COURT: Did you tell Mr. Denbeaux that you had  
2 already told Kourani that you were not interested to talk with  
3 him unless he was willing to talk about Hezbollah?

4                   THE WITNESS: No.

5                   THE COURT: Okay. And the meeting actually occurred?

6                   THE WITNESS: March 23rd, your Honor.

7                   THE COURT: Proceed, Ms. Houle.

8 BY MS. HOULE:

9 Q. Special Agent, you were describing how the meeting began.

10 A. We had admonished Mr. Kourani to tell us the truth and that  
11 to lie to the FBI could be a crime. Mr. Kourani then began  
12 listing what he wanted for his cooperation, benefits from the  
13 government. We explained to Mr. Kourani that as special agents  
14 of the FBI, we can only be advocates for his benefits, but  
15 before we could ever provide any advocacy, he would have to  
16 tell us the whole and complete truth regarding his personal  
17 involvement regarding Hezbollah.

18 Q. What, specifically, did the defendant request?

19 A. The defendant requested that his father and sister, who at  
20 that time were living in Lebanon, be brought to the United  
21 States, and that he have assistance in getting custody of his  
22 two children, who, I believe, were living with his wife in  
23 Canada.

24 Q. So, focusing first on the defendant's request with respect  
25 to his father, had the defendant's father previously tried to

J5DKKOU1

Costello - Direct

1 become a United States citizen?

2 A. Yes.

3 Q. What happened with that application?

4 A. It was denied.

5 Q. If someone has been denied U.S. citizenship, can the FBI  
6 request that the person be brought into the United States?

7 A. Yes.

8 Q. What does that process entail?

9 A. The process is called a paroling someone in. It's  
10 colloquially called that. The FBI makes a request to the  
11 Department of Homeland Security, who then works alongside the  
12 United States Department of State, to grant that person a visa  
13 to enter the United States. It's a request made by the FBI.

14 Q. So who makes the final decision about whether the person  
15 may be let into the United States?

16 A. I believe both the Department of Homeland Security and the  
17 U.S. State Department.

18 Q. You said that the defendant also made a request with  
19 respect to his children, that they be brought into the United  
20 States from Canada; is that correct?

21 A. Yes.

22 Q. Were there any challenges to you assisting the defendant  
23 with that request?

24 A. Yes.

J5DAAKOU2

Costello - Direct

1 BY MS. HOULE:

2 Q. What challenges?

3 A. His children were with his wife who had legal custody of  
4 them in Canada his wife, a Canadian citizen living there  
5 legally. And it would be very difficult for us to just go get  
6 them or for us to advocate for that. So we explained to the  
7 defendant that we would have to work in cooperation with the  
8 Canadian government and even then that would be very, very  
9 difficult.

10 Q. You said those things to the defendant at the March 23rd  
11 meeting?

12 A. Yes.

13 Q. Did you make any suggestion to the defendant in connection  
14 with his request regarding his children?

15 A. Yes. We even advised the defendant that he should retain  
16 an attorney who deals specifically with child custody issues.

17 Q. Did you discuss any timeframe with the defendant in  
18 connection with his requests?

19 A. Yes.

20 Q. What was that?

21 A. The defendant requested that we, the FBI, provide him a  
22 timeframe that should he cooperate and be truthful with us on  
23 how long it could take to bring his father and sister from  
24 Lebanon. I felt very uncomfortable giving that answer, as I  
25 previously stated to the defendant, I'm not allowed to make

J5DAAKOU2

Costello - Direct

1 promises. I can't make promises. I'm just an advocate. And I  
2 felt that giving that time estimate could be misconstrued. I  
3 asked for a minute to take a break and I called my supervisor.

4 Q. What happened after you called your supervisor?

5 A. I returned to the interview room. I explained to both the  
6 defendant and Mr. Denbeaux that I would provide them an  
7 estimate but I wanted them to verbally acknowledge that it was  
8 just an estimate, that I was speaking for government agencies  
9 that I had no purview over. And that again, even before any  
10 advocacy could happen, we would need the defendant's full and  
11 complete knowledge of his involvement with Hezbollah. The  
12 defendant and Mr. Denbeaux did verbally state, I understand  
13 that it's just an estimate. And then told them by the end of  
14 summer -- we were meeting in March, so I said end of summer,  
15 August of that year.

16 Q. Special Agent, after you provided this estimate to the  
17 defendant, what happened next in the meeting?

18 A. The defendant thanked me. Then there was a pause. He  
19 looked down. He looked up. And he said "I am 910 Islamic  
20 Jihad".

21 THE COURT: "I am 910th"?

22 THE WITNESS: "910", your Honor.

23 Q. What is 910?

24 A. 910 is the Unit number of Hezbollah's Islamic Jihad  
25 Organization.

J5DAAKOU2

Costello - Direct

1 Q. Did you ask the defendant any questions in response?

2 A. Yes. I thanked the defendant for that admission and then  
3 asked him what it meant to him to be Islamic Jihad.

4 Q. What did he say?

5 A. The defendant stated that he is Hezbollah Black Ops and is  
6 controlled by the Iranians.

7 Q. Did the defendant say anything about how he had joined the  
8 Islamic Jihad Organization?

9 A. Yes. Defendant in that meeting detailed to us both his  
10 recruitment into the Islam Jihad Organization and his training.

11 Q. What did he say about his recruitment?

12 A. The defendant stated he was initially spotted and recruited  
13 by a prominent local Shia sheik who he described at "the watch  
14 key". Forgive me. I forgot the exact phrase. But the first  
15 individual who recruited him was a local Shia sheik.

16 Q. Did he gave the name of that sheik?

17 A. I'm blanking on it right now but he did, yes, I believe  
18 Mohammad Kourani. I may not be sure on that.

19 Q. What else did the defendant say about his recruitment into  
20 the Islamic Jihad Organization?

21 A. The defendant stated that he also met with members of  
22 Hezbollah security apparatus, intelligence apparatus and then  
23 finally, he met with a mentor or a single handler with  
24 Hezbollah.

25 Q. Did the defendant provide the name of that handler?

J5DAAKOU2

Costello - Direct

1 A. Yes.

2 Q. What was that?

3 A. Fadi, F-a-d-i.

4 THE COURT: Just a minute.

5 (Pause)

6 THE COURT: I'm sorry.

7 Go ahead, Ms. Houle.

8 MS. HOULE: Thank you, your Honor.

9 Q. Did the defendant describe what his responsibilities would  
10 be in the Islamic Jihad Organization?

11 A. Yes. The defendant stated he would be expected to be  
12 operational, to conduct activities on behalf of Islamic Jihad  
13 worldwide, both in the United States where he resided at that  
14 point, also within Lebanon as well.

15 Q. You said that the defendant also described his training  
16 within Hezbollah?

17 A. Yes.

18 Q. What did he say about that?

19 A. The defendant detailed three separate training sessions he  
20 conducted with Hezbollah.

21 Q. What did he say?

22 A. The first he detailed to us was a boot camp. He called it  
23 a 45-day training session in the year 2000. The second and  
24 third were training sessions he conducted or took part in once  
25 he was a member of Islamic Jihad.

J5DAAKOU2

Costello - Direct

1 Q. What did the defendant say, generally, about what those  
2 trainings consisted of?

3 A. The first training, the 2000 training, the year 2000, it  
4 was a 45-day boot camp conducted of shooting weapons, small  
5 arms, AK-47 rocket-propelled grenades, small units tactics,  
6 basic military training. And then the two training sessions he  
7 took part in following the Islam Jihad concerned interview  
8 interrogations, counter-interviews.

9 Q. Did the defendant describe any assignments he completed for  
10 the Islamic Jihad Organization?

11 A. Yes.

12 Q. What did he say?

13 A. The defendant detailed three separate assignments that he  
14 completed on behalf of the Islamic Jihad Organization.

15 Q. What were they?

16 A. The first was he was tasked and he did complete scouting  
17 United States military intelligence targets within the New York  
18 City metropolitan area on behalf of Islam jihad.

19 The second, he was tasked with finding individuals in  
20 the New York City area who could obtain weapons, guns on behalf  
21 of Islam Jihad.

22 And the final session was he provided airport security  
23 procedure information to Islamic Jihad on U.S. airports.

24 Q. Did the defendant confirm that he had completed each of  
25 those tasks?

J5DAAKOU2

Costello - Direct

1 A. Yes.

2 Q. How did the meeting end on March 23?

3 A. The meeting ended with we thanked the defendant for his  
4 time and his admissions. We tentatively planned to meet again.  
5 I again reminded the defendant that although we appreciated his  
6 cooperation, until we received the full and complete truth  
7 regarding his involvement with Hezbollah, we could not advocate  
8 for him receiving any benefits.

9 Mr. Denbeaux and the defendant laughed and said I  
10 sounded like a broken record because I had said that so much at  
11 the beginning of the meeting. I said, Give me a break. I'm  
12 just doing by job.

13 THE COURT: Who asked to break the meeting?

14 THE WITNESS: I can't recall, your Honor.

15 THE COURT: Did you want to continue asking questions?

16 THE WITNESS: No, your Honor. It was, I think, fairly  
17 late at night at that point. We had met in the early evening,  
18 so.

19 Q. Following this meeting did Mr. Denbeaux send you any  
20 communications?

21 A. Yes.

22 Q. In What format?

23 A. I received a text message.

24 Q. I am showing you Government Exhibit 802.

25 MS. HOULE: Ms. Shields, if you could bring that up on

J5DAAKOU2

Costello - Direct

1 the screen please.

2 (Pause)

3 Q. Special Agent, what is this?

4 A. That is a screen shot from my cellular telephone of the  
5 text message I received that night from Mr. Denbeaux.

6 Q. The message is in yellow. Who are those from?

7 A. Mr. Denbeaux.

8 Q. So, the top message "I understand that you can't promise or  
9 guarantee", that was from Mr. Denbeaux?

10 A. Yes.

11 Q. And did you write in response, "Thank you. I'm glad we're  
12 on the same page"?

13 A. Yes.

14 Q. And this bottom message that's in yellow, "We always were",  
15 that's from Mr. Denbeaux, correct?

16 A. Yes.

17 MS. HOULE: Thank you, Ms. Shields. You can take that  
18 down.

19 (Pause)

20 Q. Turning your attention to March 30, 2017, did you have  
21 plans with respect to the defendant that day?

22 A. Yes.

23 Q. What was supposed to happen?

24 A. Myself and Special Agent Shannon were supposed to meet with  
25 both the defendant and Mr. Denbeaux again at Seton Hall

J5DAAKOU2

Costello - Direct

1 University Law School.

2 Q. Did that happen that day?

3 A. No.

4 Q. Why not?

5 A. I believe the defendant confused the dates and was not  
6 present when we arrived.

7 Q. Did you speak with Mr. Denbeaux at Seton Hall that day?

8 A. Yes.

9 Q. Was Special Agent Shannon present for that as well?

10 A. Yes.

11 Q. What did you discuss with Mr. Denbeaux?

12 A. We grabbed a quick cup of coffee with Mr. Denbeaux and we  
13 provided him information on the Islamic Jihad Organization. I  
14 explained to Mr. Denbeaux that it's a complex trained national  
15 terrorist organization responsible for a lot of attacks dating  
16 to the two bombings in Argentina in the early 90s, to the  
17 Burgas attacks in 2012. And as such it will take a significant  
18 amount of time for the four of us meeting to fully flush out  
19 the defendant's knowledge of Islamic Jihad.

20 THE COURT: Did you elaborate on any of those  
21 incidents?

22 THE WITNESS: Yes, your Honor.

23 THE COURT: Tell was you said.

24 THE WITNESS: I stated that Islamic Jihad was  
25 responsible for the Jewish Center attack in 1994, the AMIA

J5DAAKOU2

Costello - Direct

1 bombing in Argentine.

2 THE COURT: AMIA IS the organization, right?

3 THE WITNESS: Yes, your Honor.

4 THE COURT: The equivalent of a Jewish cultural  
5 center.

6 THE WITNESS: Yes, your Honor. And also the bombing  
7 in 1992 in Argentina as well.

8 We also provided, discussed with Mr. Denbeaux the 2012  
9 Burgas Bulgaria bus attack in which a bus of Israeli tourists  
10 was blown up in Bulgaria, along with the Bulgarian bus driver.

11 Q. How did that meeting with Mr. Denbeaux end?

12 A. I think Mr. Denbeaux may have texted or called a defendant  
13 and we set up a separate date to make up the meeting.

14 Q. Turning your attention to April 2, 2017, did you have a  
15 call that day with Mr. Denbeaux?

16 A. Yes.

17 Q. Did anyone else participate in the call?

18 A. To the best of my recollection, just myself and  
19 Mr. Denbeaux.

20 Q. What was said on this call?

21 A. Mr. Denbeaux stated he had spoken with the defendant  
22 regarding our upcoming scheduled meeting for April the 3rd. He  
23 stated that the defendant stated to him that he remained  
24 adamant he should receive benefits for cooperating with the  
25 U.S. government.

J5DAAKOU2

Costello - Direct

1                   Mr. Denbeaux stated to me that he stated to the  
2 defendant that we could not make promises, that he would have  
3 to be fully truthful with us first before any advocacy would  
4 happen.

5                   I thank Mr. Denbeaux for admonishing his client and  
6 reminded him that we could only be advocates and we would need  
7 the full and complete truth regarding the defendant's  
8 involvement with Hezbollah before anything could happen.

9 Q. Directing your attention to April 3, 2017, did you meet  
10 with the defendant that day?

11 A. Yes.

12 Q. Where was that meeting?

13 A. Seton Hall University Law School.

14 Q. Who was present?

15 A. Special Agent Shannon, the defendant, myself and  
16 Mr. Denbeaux.

17 Q. How did the meeting begin?

18 A. The meeting began by Mr. Denbeaux providing us a piece of  
19 paper which he stated were his notes.

20 Q. Did Mr. Denbeaux ask you to do anything with his notes?

21 A. No.

22 Q. What did you and Special Agent Shannon do with the notes?

23 A. We took a few minutes to review them privately in the  
24 hallway.

25 Q. And what happened when you were in the hallway?

J5DAAKOU2

Costello - Direct

1 A. We reviewed the notes. We saw some things we agreed with  
2 and we disagreed with.

3 MS. HOULE: Ms. Shields, could you please bring up  
4 Government Exhibit 221.

5 Q. Special Agent, is this the document that Mr. Denbeaux  
6 handed you?

7 A. Yes.

8 MS. HOULE: Ms. Shields, if you could zoom-in on the  
9 top two points there.

10 (Pause)

11 Q. This says what these meetings are not. Point One, this is  
12 not a plea negotiation nor is it a proffer of any sort.

13 What was your reaction to that point when you reviewed  
14 the document?

15 A. I agreed with it.

16 Q. Turning to the next point, he is not seeking any kind of  
17 immunity or protection. Let me just stop there.

18 What was your reaction to that portion of Point Two?

19 A. I agreed with it.

20 Q. The line continues: Because it has already been agreed he  
21 has committed no crime and faces no prosecution.

22 What was your reaction to that portion of Point Two

23 A. I disagreed with it.

24 Q. Why?

25 A. We had never discussed this with Mr. Denbeaux and the

J5DAAKOU2

Costello - Direct

1 defendant had admitted to being a member of a terrorist  
2 organization.

3 Q. While you were out in the hallway, did you and Special  
4 Agent Shannon agree to any particular course of action?

5 A. Yes.

6 Q. What was that?

7 A. We agreed to return to the room and answer any of  
8 Mr. Denbeaux's or the defendant's questions regarding the  
9 document.

10 Q. Did you return to the room?

11 A. Yes.

12 Q. Did you say anything to Mr. Denbeaux or the defendant about  
13 the document when you returned?

14 A. I believe I stated to Mr. Denbeaux, Those are not your  
15 notes. And then at a point Mr. Kourani began speaking.

16 Q. Did Mr. Denbeaux ask you any questions about that document?

17 A. No.

18 Q. Did the defendant ask you any questions about that  
19 document?

20 A. No.

21 THE COURT: Before you get off that, leave it up for a  
22 minute.

23 Did you and Denbeaux discuss what technically a  
24 proffer is?

25 THE WITNESS: No.

J5DAAKOU2

Costello - Direct

1                   THE COURT: Just left it the way it is.

2                   THE WITNESS: Yes.

3                   THE COURT: The way he said it with no further  
4 elaboration?

5                   THE WITNESS: Yes.

6                   THE COURT: Go ahead.

7 Q. Let's turn to the substance of your meeting with the  
8 defendant.

9                   You testified that in your prior meetings the  
10 defendant described his trainings with Hezbollah?

11 A. Yes.

12 Q. Did he discuss that during this meeting?

13 A. Yes.

14 Q. What was said?

15 A. The defendant stated he also attended another different  
16 training session once he was recruited into Islamic Jihad. It  
17 was a training session specializing in the use of guns, AK-47s,  
18 NP5s, PKN belt-fed machine guns, rocket-propelled grenades and  
19 I believe Glock handguns. He attended his training with Fadi,  
20 his Mentor at Islamic Jihad.

21                   THE COURT: Attended with whom.

22                   THE WITNESS: Fadi.

23 Q. You said that at your prior meeting with the defendant, he  
24 described surveillance that he had conducted or the Islamic  
25 Jihad Organization. Was that topic discussed at this meeting?

J5DAAKOU2

Costello - Direct

1 A. Yes.

2 Q. What did the defendant say?

3 A. The defendant stated that he had provided airport security  
4 notes specific to JFK airport in Queens, New York to Islamic  
5 Jihad.

6 Q. During this April 3 meeting, did the defendant describe any  
7 additional taskings that the IJO had given to him that he had  
8 not told you about in the prior meeting?

9 A. Yes.

10 Q. What was that?

11 A. The defendant stated he was tasked by IJO to obtain a  
12 United States passport card.

13 Q. Did the defendant say why the Islamic Jihad Organization  
14 wanted him to obtain a passport card?

15 A. Yes.

16 Q. What did he say?

17 A. The defendant stated that the IJO wanted him to obtain a  
18 U.S. passport card that should his U.S. passport ever be seized  
19 by a security service, he can then fly to Canada or Mexico on  
20 his Lebanese passport and then enter the United States using  
21 the passport card.

22 Q. Did the defendant confirmed that he had obtained a U.S.  
23 passport card?

24 A. Yes. I provided the defendant a copy of the DS11 from his  
25 U.S. passport card application and he confirmed it as his.

J5DAAKOU2

Costello - Direct

1 Q. Did you again meet with the defendant on April 5, 2017?

2 A. Yes.

3 Q. Was that meeting also held at Seton Hall?

4 A. Yes.

5 Q. Who was present?

6 A. Myself, Special Agent Shannon, the defendant and  
7 Mr. Denbeaux.

8 Q. Did you participate in this meeting with the defendant?

9 A. Not entirely, no.

10 Q. What happened?

11 A. The defendant requested to conduct the interview one-on-one  
12 alone with Special Agent Shannon.

13 Q. Did that occur?

14 A. Yes.

15 Q. Directing your attention to April 14, 2017, did you meet  
16 with the defendant that day?

17 A. Yes.

18 Q. Was that also at Seton Hall?

19 A. Yes.

20 Q. Who was present for that meeting?

21 A. Myself, Special Agent Shannon from my squad, the defendant  
22 and Mr. Denbeaux.

23 Q. During this meeting did you show the defendant any  
24 photographs?

25 A. Yes.

J5DAAKOU2

Costello - Direct

1 Q. I am showing you what's in evidence as Government Exhibit  
2 803.

3 MS. HOULE: Ms. Shields, if you could bring that up on  
4 the screen please.

5 (Pause)

6 Q. Special Agent, what is shown here in this photo?

7 A. 26 Federal Plaza, the FBI's New York field office.

8 Q. Did you show the defendant this photo during your meeting  
9 on April 14?

10 A. Yes.

11 Q. What did the defendant say?

12 A. The defendant stated or positively IDed it as a location  
13 that he conducted surveillance of on behalf of the IJO.

14 MS. HOULE: Ms. Shields, if you could turn to page  
15 two, please.

16 Q. What is this location?

17 A. This is a U.S. Army National Guard facility in Harlem, New  
18 York.

19 Q. Did you show the defendant this photo on April 14?

20 A. Yes.

21 Q. What did he say?

22 A. The defendant positively ID it as a location he surveilled  
23 on behalf of the Islamic Jihad Organization.

24 MS. HOULE: If you could turn to page five please and  
25 rotate the picture.

J5DAAKOU2

Costello - Direct

1 (Pause)

2 Q. What's shown here?

3 A. The United States Secret Service New York field office in  
4 Brooklyn, New York.

5 Q. Did you show this photo to the defendant on April 14?

6 A. Yes.

7 Q. What did he say?

8 A. He positively identified it as a location he surveilled on  
9 behalf of Islam Jihad.

10 MS. HOULE: If you could turn to page eight please.

11 (Pause)

12 Q. What is shown here?

13 A. That is the U.S. Army or U.S. Army 69 Regiment Armory in  
14 lower Manhattan.

15 Q. And did you show the defendant this photo?

16 A. Yes.

17 Q. What did he say?

18 A. He positively identified it as a location that he scoured  
19 and surveilled on behalf of the Islamic Jihad.

20 Q. Did the defendant tell you how he had provided this  
21 information to the Islamic Jihad Organization?

22 A. Yes.

23 Q. What did he say?

24 A. He stated he provided it on a micro SD card.

25 Q. And where did he bring that micro SD card?

J5DAAKOU2

Costello - Direct

1 A. To Lebanon.

2 Q. Did he say who he provided it to?

3 A. Yes. His handler, Fadi, or someone else with Islamic  
4 Jihad.

5 Q. During that meeting, did the topic of sleeper cells come  
6 up?

7 A. Yes.

8 Q. What was said?

9 A. The defendant stated he was a sleeper cell of Iran and  
10 Hezbollah in the United States and in the event of a war  
11 involving Iran or Hezbollah and the United States or Israel, he  
12 would be expected to conduct activities in the United States or  
13 anywhere else in the world.

14 Q. Directing your attention to April 19, 2017, did you  
15 participate in a phone call that day with Mr. Denbeaux?

16 A. Yes.

17 Q. Was anyone else on call?

18 A. To the best of my recollection, just myself and  
19 Mr. Denbeaux.

20 Q. What was said on this call?

21 A. Mr. Denbeaux stated he had spoken with the defendant  
22 regarding an upcoming meeting and they felt it was in the  
23 defendant's best interests to continue to meet with the FBI.

24 Q. Did you respond?

25 A. Yes. I thanked him for that and I believe I confirmed our

J5DAAKOU2

Costello - Direct

1 upcoming meeting.

2 Q. Directing your attention now to April 25, 2017, did you  
3 participate in another phone call that day with Mr. Denbeaux?

4 A. Yes.

5 Q. Was anyone else on the call?

6 A. To the best of my recollection, just myself and  
7 Mr. Denbeaux.

8 Q. What was said on this call?

9 A. Mr. Denbeaux stated he had spoken with the defendant  
10 regarding our planned meeting for the following day and that he  
11 was confident the defendant would have a, quote, big day.

12 Q. Turning your attention to that next day, April 26, 2017,  
13 did you meet with the defendant that day?

14 A. Yes.

15 Q. Was that meeting also at Seton Hall?

16 A. Yes.

17 Q. Who was present for that meeting?

18 A. Myself, Special Agent Shannon, the defendant and  
19 Mr. Denbeaux.

20 Q. During that meeting, did the defendant raise the timing of  
21 his recruitment into the Islamic Jihad Organization?

22 A. Yes.

23 Q. What did he say?

24 A. The defendant stated when he had previously told us that he  
25 was recruited into Islamic Jihad in 2010 that he had lied and

J5DAAKOU2

Costello - Direct

1 that he was, in fact, recruited in 2008.

2 Q. Did the defendant say why he had previously given you a  
3 different date?

4 A. Yes.

5 Q. What did he say?

6 A. The defendant stated he did not want us, the government, to  
7 know that he was a member of Hezbollah prior to obtaining  
8 United States citizenship.

9 Q. Did the defendant say why he had obtained United States  
10 citizenship?

11 A. Yes.

12 Q. What did he say?

13 A. He was tasked to obtain it by the Islamic Jihad  
14 Organization.

15 Q. Did the topic of the defendant's trainings come up during  
16 this meeting?

17 A. Yes.

18 Q. What did he say?

19 A. The defendant provided information on another separate  
20 training session that occurred in an area called Birkat Jabrur.

21 Q. Did the defendant describe what happened at that training?

22 A. Yes. It was a training in eastern Lebanon in the Bekaa  
23 Valley where the defendant, along with other masked Islamic  
24 Jihad operatives, were trained on weapons, attack tactics,  
25 grenades, AK-47s, machine guns.

J5DAAKOU2

Costello - Direct

1                   THE COURT: Same stuff as before?

2                   THE WITNESS: Somewhat, your Honor. My understanding,  
3 this was a bit more less shooting and more tactics.

4                   THE COURT: What's the date of this meeting in Lebanon  
5 training session?

6                   THE WITNESS: I don't recall exactly, your Honor.

7                   THE COURT: Did he give you a time, an estimate, days?  
8 What was it?

9                   THE WITNESS: To the best of my recollection, this may  
10 have been in 2011, your Honor.

11 Q. Did the topic of the Israeli Defense Force come up at the  
12 meeting?

13 A. Yes.

14 Q. What was said?

15 A. The defendant stated he was tasked by the Islamic Jihad  
16 Organization to identify high ranking IDF members in the New  
17 York City area for assassination or recruitment.

18 Q. Did the defendant say what, if anything, he did in response  
19 to this tasking?

20 A. Yes.

21 Q. What did he say?

22 A. The defendant stated he returned to New York and then  
23 queried the social media business networking website LinkedIn  
24 using such search terms like IDF and was able to identify  
25 multiple individuals who were former or current members of the

J5DAAKOU2

Costello - Direct

1 Israeli Defense Force.

2 Q. What, if anything, did the defendant say about what  
3 information he provided to the Islam Jihad Organization?

4 A. Following this when he was in Lebanon being debriefed by  
5 Fadi, his mentor, he stated to Fadi that you could identify IDF  
6 members through LinkedIn.

7 Q. Turning your attention to May 1, 2017, did you speak with  
8 Mr. Denbeaux by phone that day?

9 A. Yes.

10 Q. Did anyone else participate in that call?

11 A. Not to my recollection, no.

12 Q. What was said on that call?

13 A. Mr. Denbeaux called me to inquire, regarding any updates or  
14 benefits for the defendant.

15 Q. Did you respond?

16 A. I again reminded Mr. Denbeaux that I was just an advocate  
17 and our investigation was ongoing and I had no updates.

18 Q. Directing your attention to May 3, 2017, did you receive a  
19 message from Mr. Denbeaux that day?

20 A. Yes.

21 Q. I am showing what's been marked for identification as  
22 Government Exhibit 8028.

23 What is that?

24 A. It's a screen shot from my cellular telephone, a text  
25 message sent to me from Mr. Denbeaux.

J5DAAKOU2

Costello - Direct

1 MS. HOULE: The government offers Exhibit 808.

2 MR. SCHACHT: No objection, your Honor.

3 THE COURT: Received.

4 (Government's Exhibit 808 received in evidence)

5 MS. HOULE: If you could please pull this up on the  
6 screen.

7 (Pause)

8 MS. HOULE: And if you could focus in, Ms. Shields,  
9 from the top of the message through point three.

10 (Pause)

11 Q. There are several phone numbers listed on this text  
12 message, Special Agent. Can you explain what they indicate?

13 A. Sure. So, the number on the left, (917)617-7039, is also  
14 on the text. That's a number I know to be the defendant's.  
15 And then the number on the right, (201)214-6785, is  
16 Mr. Denbeaux's number.

17 And then finally, you can see the text comes from the  
18 6785 number, Mr. Denbeaux.

19 Q. This message begins:

20 Based on my personal knowledge the following facts are  
21 true. The conclusion of our last meeting -- and I am going to  
22 move down to point three -- that you and I would talk about the  
23 government's plans to provide the assistance agreed upon.

24 What was your reaction to that portion of the message  
25 from Mr. Denbeaux?

J5DAAKOU2

Costello - Direct

1 A. I didn't understand it and didn't agree with it.

2 Q. What didn't you agree with?

3 A. We at no point ever agreed on any assistance from the  
4 defendant.

5 THE COURT: You had represented that you would  
6 advocate.

7 THE WITNESS: Yes, your Honor. We stated multiple  
8 times to both the defendant and Mr. Denbeaux that should the  
9 defendant provide us the full and complete truth regarding his  
10 involvement with Hezbollah that we would advocate.

11 THE COURT: Go ahead.

12 MS. HOULE: Ms. Shields, if you could zoom-out and  
13 turn to the next page, please, and then if you could zoom-in on  
14 point four through the bottom.

15 This is a continuation of the text message; is that  
16 right, Special Agent?

17 A. Yes.

18 Q. Point four says:

19 When I called you about the government's plans, you  
20 said two things. My client had given you nothing that you did  
21 not know already and that you had nothing for his assistance.

22 What was your reaction to that portion of the message?

23 A. I didn't understand it.

24 Q. Why not?

25 A. Well, I believe Mr. Denbeaux was paraphrasing a

J5DAAKOU2

Costello - Direct

1 conversation we had, the conclusion of the fifth meeting with  
2 Mr. Kourani on May 26, where I had said to him that the  
3 defendant still had more knowledge regarding Hezbollah.

4 Q. The message continues:

5 That means as his children who are American citizens  
6 remain in danger along with his other family members.

7 What was your reaction to that portion of the message?

8 A. It was -- I didn't understand it.

9 Q. Were you aware of any danger that his children or family  
10 members were in?

11 A. No. The defendant had provided us some information on his  
12 mother-in-law. But outside of that, we had no information  
13 indicating any danger to both his children or his family  
14 members in Lebanon.

15 THE COURT: Was the defendant concerned about the  
16 safety of his children?

17 THE WITNESS: No, your Honor, not to my understanding,  
18 no. I felt that he did not like his in-laws and felt that they  
19 were not going to raise his children as he would like them to  
20 be raised but I knew of no safety concerns, your Honor.

21 THE COURT: Did he express any fear or concern about  
22 his father and sister in Lebanon?

23 THE WITNESS: No.

24 Q. The message continues:

25 And he has been abandoned after days of voluntary

J5DAAKOU2

Costello - Direct

1 cooperation to the government. I am ashamed as an American and  
2 as his lawyer.

3 What was your reaction to that portion of the message?

4 A. I didn't understand that either.

5 Q. Did you agree that the defendant had engaged in voluntary  
6 cooperation to his government?

7 A. Yes.

8 Q. The message concludes with a question, How do you feel?

9 What did you do after you received this message?

10 A. I called Mr. Denbeaux.

11 Q. And what happened when you called him?

12 A. I explained to Mr. Denbeaux that given the defendant had  
13 admitted to being a member of a designated foreign terrorist  
14 organization who had conducted operational activities in the  
15 United States, that it would be very difficult for us to  
16 discuss any advocacy for benefits at this point, and that  
17 finally, someone else from the U.S. Government would be getting  
18 in touch.

19 At that point, Mr. Denbeaux became very angry and  
20 stated he would go to the media.

21 Q. How did the call end?

22 A. After that, I believe, Mr. Denbeaux hung up.

23 Q. Directing your attention to May 17, 2017, did you again  
24 speak by phone with Mr. Denbeaux that day?

25 A. Yes.

J5DAAKOU2

Costello - Direct

1 Q. Did you anyone else participate in that call?

2 A. To my recollection, just my set and Mr. Denbeaux.

3 Q. What was said on the call?

4 A. Mr. Denbeaux stated he had spoken with the defendant and  
5 the defendant wanted to return to Lebanon as he felt it was the  
6 best chance to regain custody of his children.

7 Q. Did Mr. Denbeaux ask you any questions about the defendant  
8 returning to Lebanon?

9 A. Yes.

10 Q. What did he ask you?

11 A. Mr. Denbeaux asked me if he felt it would be safe for the  
12 defendant in Lebanon.

13 Q. What did you do?

14 A. I stated, the best question to ask that question would be  
15 the defendant.

16 Q. What did you do with the information from Mr. Denbeaux that  
17 the defendant intended to travel to Lebanon?

18 A. I immediately relayed it to my supervisors at the FBI.

19 Q. Why did you do that?

20 A. At that point our investigation was progressing. We did  
21 not want the defendant attempting to flee the country.

22 MR. SCHACHT: Objection.

23 THE COURT: Is that what you told the supervisor?

24 THE WITNESS: I provided the supervisor the  
25 information regarding the defendant's desire to return to

J5DAAKOU2

Costello - Direct

1 Lebanon.

2 THE COURT: Side bar.

3 (Continued on next page)

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

J5DAAKOU2

Costello - Direct

1 (side bar)

2 THE COURT: What's the basis of the objection?

3 MR. SCHACHT: I have multiple bases. The first one is  
4 his conversations with his supervisor are hearsay, unless  
5 they're offered for some reasonable --

6 THE COURT: Ms. Houle.

7 MS. HOULE: I didn't ask about the specifics of his  
8 conversation with his supervisor, your Honor. I asked if he  
9 had escalated the information about the defendant's intent to  
10 flee. I believe that that's relevant, particularly, since  
11 defense counsel has made arguments regarding whether the FBI  
12 should have arrested the defendant.

13 THE COURT: That's so much of that statement you're OK  
14 with.

15 MR. SCHACHT: Well, I object first of all, to the use  
16 of the word "flee" or "flight". I've never in my --

17 THE COURT: Well, that's his words. I'll tell the  
18 jury --

19 MR. SCHACHT: In 30 years of, a defense lawyer never  
20 calls the FBI and says my client's fleeing.

21 THE COURT: So, you object to that as well?

22 MR. SCHACHT: It's not flight. Flight is when someone  
23 secretly runs away.

24 THE COURT: I think I'm going to sustain the  
25 objection.

J5DAAKOU2

Costello - Direct

1 MS. HOULE: As to the comment made about flight, your  
2 Honor, because I could separately inquire --

3 THE COURT: Yes, because it's not taken for the truth.  
4 It is reporting to the supervisor so that's the only thing  
5 that's relevant. And if the supervisor can be a witness, then  
6 that would be something else. But we take it up there. But at  
7 this point everything else is hearsay.

8 MS. HOULE: May I inquiry, your Honor, of the witness  
9 as to why the FBI was concerned that the defendant might travel  
10 to Lebanon?

11 THE COURT: No, no.

12 (Continued on next page)

13 (In Open Court)

14 THE COURT: Members of the jury, the conversation with  
15 the supervisor is hearsay. All that is relevant is that  
16 Mr. Costello reported to his supervisor. What Costello said  
17 and what the supervisor said are hearsay and you should not pay  
18 any attention to it at all. It is stricken from the record.

19 The last part is that Denbeaux tells Costello that his  
20 client -- and Mr. Costello reports that fact to his supervisor.  
21 What happens next you can ask.

22 MS. HOULE: Thank, your Honor.

23 Q. May 26, 2017, did you speak with Mr. Denbeaux by phone  
24 again that day?

25 A. Yes.

J5DAAKOU2

Costello - Direct

1 Q. Did anyone else participate in this phone call?

2 A. To the best of my recollection, just myself and  
3 Mr. Denbeaux.

4 Q. What was said on this call?

5 A. Mr. Denbeaux stated he had spoken with the defendant.

6 THE COURT: Mr. Denbeaux called you or you called  
7 Denbeaux?

8 THE WITNESS: I believe Mr. Denbeaux called me, your  
9 Honor.

10 Q. What was said on this call?

11 A. Mr. Denbeaux stated he had spoken with the defendant and  
12 the defendant at that point wanted to relocate to the midwest  
13 of the U.S.

14 Q. Did Mr. Denbeaux ask you any questions in connection with  
15 the defendant's ability to travel?

16 A. Yes.

17 Q. What did he ask you?

18 A. Mr. Denbeaux stated that in conversations with the  
19 defendant he had learned the defendant to possibly be on the  
20 no-fly list with the U.S. government. Mr. Denbeaux asked me if  
21 I knew the defendant to be on the no-fly list. I stated that  
22 it was the policy of the FBI not to comment on that.

23 Q. Did you relay the information for Mr. Denbeaux about the  
24 defendant's intent to travel to anyone?

25 A. Yes, to my supervisor of the FBI.

J5DAAKOU2

Costello - Direct

1 Q. You've testified about several meetings and conversations  
2 that you had with the defendant and Mr. Denbeaux. During any  
3 of these conversations did Mr. Denbeaux ever ask you whether  
4 the defendant could have immunity?

5 A. No.

6 Q. Did the defendant ever ask you about immunity?

7 A. No.

8 Q. Would you have been able to offer immunity?

9 A. No.

10 Q. Why is that?

11 A. As a Special Agent in the FBI, that's not within my powers.

12 Q. Was an arrest warrant ultimately obtained for the  
13 defendant?

14 A. Yes.

15 Q. When was that?

16 A. May 31, 2017.

17 Q. When was the defendant arrested?

18 A. The following day June 1, 2017.

19 Q. And as part of that arrest, was the defendant transported  
20 to 26 Federal Plaza on June 1?

21 A. Yes.

22 Q. Once at 26 Federal Plaza, did the defendant ask to make any  
23 phone calls?

24 A. Yes.

25 Q. Did he make any calls?

J5DAAKOU2

Costello - Direct

1 A. Yes.

2 Q. Who did he call?

3 A. I believe he called Mr. Denbeaux.

4 Q. How many times?

5 A. Twice.

6 Q. Following the defendant's calls to Mr. Denbeaux, did the  
7 defendant make any statements to you?

8 A. Yes.

9 Q. What did he say?

10 A. The defendant stated he wanted a new lawyer and they wanted  
11 to cooperate with the FBI.

12 Q. Was the defendant provided a new lawyer?

13 A. Yes.

14 Q. What was that?

15 A. Peggy Cross-Goldenberg.

16 Q. Directing your attention to the following day, June 2,  
17 2017, did you meet with the defendant that day?

18 A. Yes.

19 Q. Who was present?

20 A. Myself, Special Agent Keri Shannon, Assistant United States  
21 Attorney Emil Bove and Amanda Houle, the defendant and Peggy  
22 Cross-Goldenberg.

23 Q. At the beginning of this meeting did the defendant sign an  
24 agreement with the U.S. Attorney's Office?

25 A. Yes.

J5DAAKOU2

Costello - Direct

1 Q. Did you observe him sign that agreement?

2 A. Yes.

3 Q. Did you keep a copy for your records?

4 A. Yes.

5 Q. Have you retrieved a copy in connection your testimony?

6 A. Yes.

7 Q. I am showing you what's been marked for identification as  
8 Government Exhibit 810. Is that the agreement that the  
9 defendant signed on June 2?

10 A. Yes.

11 MS. HOULE: The government offers 810.

12 MR. SCHACHT: No objection, your Honor.

13 THE COURT: Received.

14 (Government's Exhibit 810 received in evidence)

15 MS. HOULE: Ms. Shields, if you could please publish  
16 the first page, and if you could zoom-in on the top paragraph.

17 (Pause)

18 MS. HOULE: So, this is an agreement between the  
19 defendant, Ali Kourani, his attorney and Assistant United  
20 States Attorneys Emil Bove and Amanda Houle, on behalf of the  
21 United States Attorney's Office for the Southern District of  
22 New York.

23 Ms. Shields, if you could zoom-out an turn to the  
24 second page and if you could zoom-in on the signature blocks.

25 Q. Special Agent, who signed above the line that says

J5DAAKOU2

Costello - Direct

1 "client"?

2 A. The defendant.

3 Q. After the defendant signed this agreement --

4 THE COURT: Are you going to do anything more with the  
5 agreement?

6 MS. HOULE: No, your Honor. I am going to ask the  
7 witness what happened next after he signed the agreement.

8 THE COURT: The agreement is now in evidence.

9 MS. HOULE: Yes, your Honor.

10 THE COURT: No one knows what the contents are except  
11 you and Mr. Schact.

12 MS. HOULE: I believe, your Honor, that the government  
13 will focus on certain portions of the agreement in closing.

14 THE COURT: It's my policy that when you put any  
15 document into evidence, the jury sees it and you go over it  
16 with the jury so the jury gets an understanding of what's in  
17 it. Do you follow that?

18 MS. HOULE: That's fine, your Honor. I have a few  
19 additional questions I can ask this witness.

20 THE COURT: Put the agreement back up then. Why don't  
21 we let the jury read it. It's in evidence. Shouldn't they  
22 understand it?

23 MS. HOULE: Yes, your Honor.

24 THE COURT: Go ahead. OK. Do it. You don't need to  
25 ask questions. You could just let the jury read it.

J5DAAKOU2

Costello - Direct

1 MS. HOULE: Ms. Shields, if you could zoom-in on the  
2 top paragraphs labeled one, two and three please.

3 (Pause)

4 THE COURT: What's a proffer agreement? Do you know?

5 THE WITNESS: Yes, your Honor.

6 THE COURT: What is it?

7 THE WITNESS: As an agreement entered between members  
8 of the United States Attorney's Office and a defendant and his  
9 attorney, the defendant will provide information regarding  
10 criminal activity.

11 THE COURT: What is the government's obligation with  
12 you?

13 THE WITNESS: That should the defendant be completely  
14 truthful that they will not hold those statements against him.

15 THE COURT: So, the government's promise is  
16 conditioned upon the government's belief that full and truthful  
17 information was given?

18 THE WITNESS: Yes, your Honor.

19 THE COURT: Go ahead.

20 Q. Stating in paragraph three of this agreement, there are  
21 certain conditions that --

22 THE COURT: What's a cooperation agreement?

23 MR. SCHACHT: Your Honor, I object to this.

24 THE COURT: OK. Then I sustain the objection.

25 Q. In paragraph three of this agreement there are certain

J5DAAKOU2

Costello - Direct

1       circumstances under which the government may use the  
2       defendant's statements against him. Was that portion of the  
3       agreement reviewed with the defendant during this meeting on  
4       June 2?

5       A. Yes.

6                  MS. HOULE: You can take that down, Ms. Shields.

7                  THE COURT: Leave it up.

8                  (Pause)

9                  THE COURT: OK. These are the paragraphs you consider  
10         relevant; is that right?

11                 MS. HOULE: Your Honor, these are the paragraph that  
12         specifically relate to the defendant's statements that were  
13         viewed at the beginning of the meeting. There's another  
14         portion of the agreement that I can highlight as well.

15                 THE COURT: Yes.

16                 MS. HOULE: Ms. Shields, if you could pull the  
17         agreement back up in terms of page two.

18                  (Pause)

19                 MS. HOULE: And if you could focus in on point six  
20         please.

21                  (Pause)

22                 MS. HOULE: Thank you.

23                 Ms. Shields, you can take that down.

24                 THE JUROR: Your Honor, there were other paragraphs,  
25         we didn't see.

J5DAAKOU2

Costello - Direct

1                   THE COURT: You want to show those?

2                   MS. HOULE: Sure. Ms. Shields, if you could pull it  
3 up and turn to page two.

4                   (Pause)

5                   MS. HOULE: If you could turn to page one and focus on  
6 paragraph four.

7                   (Pause)

8                   THE COURT: Take it down.

9                   (Pause)

10                  THE COURT: Sentencing is not an issue for the jury.  
11 And other things in that agreement are not an issue for the  
12 jury. Typically, with a long document and also with a shorter  
13 document, I ask counsel to relate to the jury that which  
14 counsel considers relevant or useful for summation in this case  
15 and for consideration by the jury in this case.

16                  And defendant is privy to do the same thing with this  
17 document in evidence. So, we'll just be satisfied with what  
18 Ms. Houle has developed and if Mr. Schact wants to develop  
19 anything else, he may. And the jury should consider that those  
20 parts that they develop are the parts that are useful to this  
21 case.

22                  THE JUROR: (Nodding).

23 BY THE COURT:

24 Q. After the defendant reviewed the proffer agreement with his  
25 counsel and the U.S. attorneys was the defendant asked

J5DAAKOU2

Costello - Direct

1 questions?

2 A. Yes.

3 Q. And during this June 2 meeting, was the defendant asked  
4 about the things that he had previously admitted to you and  
5 Special Agent Shannon about his involvement in Islamic Jihad  
6 organization and Hezbollah?

7 A. Yes.

8 Q. What did the defendant say?

9 A. The defendant stated that everything he did with Hezbollah  
10 was true.

11 Q. And did he address specifically what he had told Special  
12 Agent Shannon about previously?

13 A. Yes.

14 Q. What did he say?

15 A. He stated everything was true.

16 MS. HOULE: One moment, your Honor?

17 Thank you. No further questions.

18 THE COURT: Let's take our midmorning break, members  
19 of the jury. Close your books. Leave them on your chair. Be  
20 back in ten to. Don't discuss the case. Keep an open mind.

21 (Jury not present)

22 THE COURT: See you in 15 minutes.

23 (Recess)

24 THE COURT: Bring out the jury.

25 (Jury present)

JOSEPH COSTELLO

Costello - Cross

1           THE COURT: Be seated, everyone.

2           Mr. Costello, you remain under oath.

3           Mr. Schact, begin the cross-examination.

4           MR. SCHACHT: Thank you, your Honor.

5 CROSS-EXAMINATION

6 BY MR. SCHACHT:

7 Q. Agent Costello, you mentioned several times on  
8 direct-examination that you'd spoken to a supervisor. Was that  
9 Gary Baptista you were talking about or somebody else?

10 A. Somebody else.

11 Q. Who was that you were speaking about?

12 A. Supervisor Special Agent Jeffrey Hunter.

13 Q. And it was since that timeframe that Gary Baptista was, the  
14 head of CT-9?

15 A. Yes.

16 Q. Do you recall testifying on direct-examination about the  
17 fact that my client told you he'd had essentially three  
18 separate training sessions?

19 A. Yes.

20 Q. The first session I think, you said he said was in the year  
21 2000?

22 A. Yes.

23 Q. And at that time he would have been approximately 16 years  
24 old; is that right?

25 A. Yes.

JOSEPH COSTELLO

Costello - Cross

1 Q. And he told that you that training session was a Hezbollah  
2 training session?

3 A. Yes.

4 Q. You mentioned before that my client had said that he had  
5 transported the results of some surveillance that he'd done on  
6 what you called a micro SD card; is that correct?

7 A. Yes.

8 Q. What is a micro SD card?

9 A. A small device I guess, device you would put files on for  
10 electronic files.

11 THE COURT: Size of a fingernail.

12 THE WITNESS: Yes, your Honor. I think they can carry  
13 in size micro SD cards.

14 Q. And on an SD card you can have video files, for example, if  
15 you took a video; is that right?

16 A. Yes.

17 Q. And that's different. A micro SD card is different than  
18 what people call a SIM card; is that right?

19 A. I'm not sure.

20 Q. You're not sure.

21 You've mentioned before that the training that he  
22 described to you, he gave you, I think you used the word a  
23 detailed description of his training; is that right?

24 A. Yes.

25 Q. And you yourself have had training, is that right, to

JOSEPH COSTELLO

Costello - Cross

1 become an FBI agent?

2 A. Yes.

3 Q. And prior to that when you worked for the state department  
4 you received extensive training I imagine; is that fair to say?

5 A. Yes.

6 THE COURT: One minute, please.

7 MR. SCHACHT: Yes your Honor.

8 (Pause)

9 THE COURT: Please come up off the record.

10 (Discussion held off the record)

11 THE COURT: We're going to stop the testimony for a  
12 short while for personal reasons.

13 (Recess)

14 THE COURT: You can resume questioning.

15 MR. SCHACHT: Thank you, your Honor.

16 Q. Agent Costello, do you recall my client mentioning the term  
17 "sleeper cell" or "sleeper agent", something to that effect?

18 A. Yes.

19 Q. Do you remember that he told you that he got that term from  
20 the Israeli Mossad?

21 A. No.

22 Q. Do you recall him telling you that the Israeli Mossad had  
23 sought to recruit what my client called "sleepers"?

24 A. I do recall something to that effect, yes.

25 Q. And my client explained to you that the point of a sleeper

JOSEPH COSTELLO

Costello - Cross

1 was that it would be someone who could live or maintain an  
2 ostensibly normal life but secretly be working for some enemy;  
3 do you recall that?

4 A. Yes.

5 MR. SCHACHT: Would you please put up Exhibit 808 when  
6 you can on the screen and would you please zoom-in on the point  
7 number four. Thank you very much.

8 (Pause)

9 Q. You'd mentioned before that this was a part of a text  
10 message that my client's former lawyer, Mark Denbeaux, had sent  
11 to you?

12 A. Yes.

13 Q. Do you see where Mr. Denbeaux says that you supposedly had  
14 said that the defendant had given you nothing that you did not  
15 already know and that he hadn't helped you essentially; do you  
16 see that?

17 A. Yes.

18 Q. And was what Mr. Denbeaux said correct; had you stated that  
19 to Mr. Denbeaux?

20 A. No.

21 Q. Had you said anything remotely like that?

22 A. No.

23 Q. Do you recall you and Mr. Denbeaux and Ali Kourani  
24 discussing the danger to his family members in Lebanon?

25 A. Not sure. More specificity, please.

JOSEPH COSTELLO

Costello - Cross

1 Q. Do you recall talking with my client about an incident he  
2 had with his ex-wife and his mother-in-law and an argument that  
3 they had about child rearing?

4 A. Yes.

5 Q. Do you recall that at the end of this problem that my  
6 client had with his wife's family, a group of people he'd said  
7 from Hezbollah tried to shoot up my client's family's house in  
8 Lebanon; do you recall that?

9 A. Not in those words, no.

10 Q. Well, do you recall talking to him about an incident in  
11 which people tried to shoot at his family's house?

12 A. No.

13 Q. So, when you said to me, not in those words, what did you  
14 recall from my question in different words?

15 A. The defendant stated once he received his kids from his  
16 wife's family's home he returned to his home where his wife's  
17 family members who were, he stated, Hezbollah militia members  
18 surrounded his home for a few days.

19 Q. And so, did you not think that if Hezbollah militia members  
20 were surrounding my client's relatives that that might be  
21 dangerous for his relatives?

22 A. No.

23 MS. HOULE: Objection.

24 THE COURT: Overruled.

25 MR. SCHACHT: Can you take that off the screen.

JOSEPH COSTELLO

## Costello – Cross

1 Thank you.

2 Q. In this case would it be fair to say that the FBI was  
3 physically surveilling meaning, literally following my client  
4 for a number of years?

5 A. Yes.

6 Q. Do you know how many years the FBI was physically following  
7 Ali Kourani?

8 A. No.

Q. Can you approximate?

10 A. Sure. The case was opened at approximately 2013. There  
11 was physical surveillance begun then and intimately from then.

12 Q. And in addition to the physical surveillance you meaning,  
13 the FBI, were listening to his phone calls, right?

14 A. Yes.

15 Q. And reading his e-mail, yes?

16 A. Yes.

17 (Continued on next page)

J5DKKOU3

Costello - Cross

1 BY MR. SCHACHT:

2 Q. And reading his email, yes?

3 A. Yes.

4 Q. And text messages?

5 A. Yes.

6 Q. And WhatsApp messages?

7 A. Some.

8 Q. It's your testimony, am I right, that you, meaning an FBI  
9 agent, is not authorized to offer to an informant or possible  
10 informant any kind of benefits? Is that fair to say, that  
11 that's what you have testified to?

12 A. We can offer benefits. We cannot make promises of  
13 benefits.

14 Q. What kind of benefits are you allowed, as an FBI agent, to  
15 offer?

16 A. The FBI can provide cash rewards for information.

17 Q. Anything else?

18 A. No, not that I know of. Not off the top of my head.

19 Q. If you know, what is necessary for an FBI agent to be able  
20 to offer cash to an informant or a possible informant?

21 A. Supervisory approval. I think up to the special agent in  
22 charge of the office.

23 Q. Now, do you recall testifying previously, on March 26,  
24 2018, in a hearing in the same case?

25 A. Yes.

J5DKKOU3

Costello - Cross

1 Q. Do you recall, at that hearing, saying that FBI agents were  
2 not allowed to offer cash to witnesses or informants?

3 A. Yes.

4 Q. And, so, in that time period, between that hearing and  
5 today, you've learned that your prior testimony on that point  
6 was incorrect; is that fair to say?

7 A. Yes.

8 Q. And you subsequently learned that prior to you meeting Ali  
9 Kourani, that another FBI agent in the case, named Gary  
10 Battista, had offered cash money to my client; is that right?

11 A. No.

12 Q. Do you recall that my client told you that one of his  
13 motivations for speaking to you was that he wanted revenge on  
14 his wife's family? Do you recall talking to my client about  
15 that?

16 A. Yes.

17 Q. What did my client say about wanting revenge on his wife's  
18 family?

19 A. To the best of my recollection, the client wanted the FBI  
20 to add his wife's family to the No Fly List to prevent them  
21 from transiting U.S. airways or utilizing U.S. air carriers.

22 Q. You understood this to be a result of him being upset and  
23 angry about his dispute with his wife and his wife's family?

24 A. Yes.

25 Q. Do you recall that, in addition to the benefits my client

J5DKKOU3

Costello - Cross

1 was asking in terms of having his children, and his sister, and  
2 his father given certain immigration help, he also was  
3 interested in his brother, Moustapha?

4 A. No.

5 Q. Do you recall that on April 26, 2017, you were meeting with  
6 my client at Seton Hall Law School?

7 A. Yes.

8 Q. Do you recall that at the end of the meeting, or during the  
9 meeting, you told my client that Moustapha's deportation  
10 proceedings had been deferred or delayed? Do you recall that?

11 A. Yes.

12 Q. And the way that you knew about that was because someone  
13 from Immigration and Customs Enforcement, a man named Adam  
14 Panopoulos, had told you that his brother's deportation  
15 proceeding was being deferred. Do you recall that?

16 A. No.

17 Q. I would like to show you a document, which, for  
18 identification purposes, is 3501-33, and ask you -- it's not in  
19 evidence, so you can't read it out loud, but if you could just  
20 quietly read that document to yourself, and I ask you, after  
21 you've read it, whether that refreshes your recollection about  
22 your email interaction with Mr. Panopoulos from Immigration and  
23 Customs Enforcement?

24 A. Yes. Forgive me. Myself and another agent on my old squad  
25 received an email from Mr. Panopoulos that day.

J5DKKOU3

Costello - Cross

1 Q. So you had learned that Moustapha, the brother's,  
2 deportation proceeding had been deferred, right?

3 A. Correct.

4 Q. And I think you were in the lobby of Seton Hall Law School  
5 with my client, and my client thanked you for helping to defer  
6 the immigration proceeding; is that fair to say?

7 A. No.

8 Q. My client -- you hadn't, by the way, personally done  
9 anything to help Moustapha, right?

10 A. Yes.

11 Q. Yes, you had helped or --

12 A. Sorry. I had not done anything personally as a special  
13 agent of the FBI to help Moustapha.

14 Q. But my client thanked you because he was under the  
15 impression that you had caused the deferral, right?

16 A. No.

17 Q. Do you recall him thanking you?

18 A. Yes.

19 Q. What did he thank you for?

20 A. Something along the phrase of giving him the heads-up.

21 Q. The heads-up about what?

22 A. That his brother's immigration proceedings had been  
23 deferred.

24 Q. Now, as a result of your investigation in the case, you  
25 developed an FBI agent-witness relationship with my client; is

J5DKKOU3

Costello - Cross

1 that fair to say?

2 A. I'm not sure I understand the question.

3 Q. Well, you weren't friends with my client, right?

4 A. No.

5 Q. You had a professional relationship with him?

6 A. Yes.

7 Q. And my client asked you for help in obtaining a job; is  
8 that right?

9 A. Asked for the FBI's help.

10 Q. And you, though, as the point person for the FBI, or one of  
11 two point people for the FBI, in dealing with him, received an  
12 email from my client asking for your help, right?

13 A. Yes.

14 Well, no. Forgive me, no.

15 Q. Well, did he send you two copies of a resume?

16 A. Yes.

17 Q. And I think he did that in the middle of the time period  
18 when you were meeting with him, having the five meetings; is  
19 that right?

20 A. Yes.

21 Q. Did you read those resumes?

22 A. No.

23 Q. Did you open up the attachment?

24 A. Maybe briefly, to see what they were, but beyond that, no.  
25 I mean, I opened them, yes.

J5DKKOU3

Costello - Cross

1 Q. Did you notice that in one of the resumes, he lists being a  
2 manager of some clothing companies, such as New Spot Fashion?

3 A. No.

4 Q. New Spot Fashion, by the way, that was one of the  
5 counterfeit clothing businesses that my client was involved in,  
6 right?

7 A. Yes.

8 Q. So did it strike you as odd or unusual that, under the  
9 circumstances in which you knew each other, he would be asking  
10 for your help in getting a job?

11 A. Yes.

12 Q. And it must have seemed especially unusual in that you were  
13 an FBI agent, and he was listing a counterfeit clothing  
14 business on his resume?

15 A. No. Again, I had not seen that on the resume.

16 Q. When my client told you about getting the military  
17 training, do you recall him telling you about being taken to  
18 some location that was a drive away from where he was living?

19 A. Yes.

20 Q. And it was in a van or a truck that had windows blacked  
21 out; is that right?

22 A. Yes.

23 Q. And the purpose of this, based upon your conversation with  
24 my client, was that so anybody in the truck who was being  
25 driven to some location would not know where they are, right?

J5DKKOU3

Costello - Cross

1 A. Yes.

2 Q. And did he also mention about how he, and possibly other  
3 people he was with, had their heads actually covered, so they  
4 couldn't see where they were?

5 A. Yes.

6 Q. When my client was arrested, you took what is known in law  
7 enforcement as some pedigree information from him; is that  
8 right?

9 A. Yes.

10 Q. And pedigree information, generally, is things like  
11 somebody's height, and weight, and what their address is, and  
12 their phone number?

13 A. Yes.

14 Q. Did you also check his shoe size?

15 A. Not that I recall, no.

16 Q. Do you recall, if you know, learning that he wears size 11  
17 shoes?

18 A. No.

19 Q. Do you recall him telling you that he used an alias,  
20 calling himself Jacob was one of his -- a name that he used?

21 A. Yes.

22 Q. And that the name Jacob was for the purpose of the  
23 counterfeit clothing business, so he wouldn't use his real  
24 name?

25 A. No.

J5DKKOU3

Costello - Cross

1 Q. No, he didn't say that, or, no, you don't recall?

2 A. No, the defendant spoke regarding aliases, but I don't  
3 remember the context. I believe he stated he had multiple  
4 aliases, some of them affiliated with Hezbollah.

5 Q. Do you recall which aliases he used supposedly for  
6 Hezbollah?

7 A. A few, yes. Or a couple, I suppose.

8 Q. Did you personally look at my client's Facebook page and  
9 the postings on it in connection with your investigation?

10 A. Yes.

11 Q. On his Facebook page, did you notice that he had some  
12 people -- I think my son says they're called friends, I'm not  
13 on Facebook, but that he had friends that posted pictures of  
14 people with weapons?

15 A. Yes.

16 Q. But that those pictures were not posted by him, by my  
17 client, but by his so-called friends?

18 A. Yes.

19 Q. You mentioned before that the address 335 Adams Street,  
20 Brooklyn, houses one of the offices of the United States Secret  
21 Service. Do you remember testifying to that?

22 A. Yes.

23 Q. That's not a -- withdrawn.

24 The address, if you Google the United States Secret  
25 Service office in New York, are you aware that that's

J5DKKOU3

Costello - Cross

1 identified as the public office for the United States Secret  
2 Service in the New York area?

3 A. No.

4 Q. That they actually have a Facebook page for 335 Adams  
5 Street Secret Service, are you aware of that?

6 A. No.

7 Q. Did my client, at some point, ask you whether you, meaning  
8 the FBI, were listening to his phone calls?

9 A. Yes.

10 Q. And at the time that he said that, am I right, you believed  
11 him to be trying to get intelligence from you about what you  
12 were investigating and doing?

13 A. No. I stated to the defendant that we can't comment on an  
14 ongoing investigation, left it at that.

15 Q. Right. But I'm asking whether you thought he was trying to  
16 learn about your investigation by asking that question.

17 A. Yes, it's -- actually, withdraw that. He did call to say  
18 about what I thought, but I don't recall.

19 Q. Okay.

20 On direct examination, you mentioned that -- and  
21 you're right, I think it was your initial phone call with  
22 Mr. Denbeaux, he had asked if the conversation or conversations  
23 that were going to happen between Denbeaux's client, Ali  
24 Kourani, and yourselves would be confidential, and you said  
25 yes; is that right?

J5DKKOU3

Costello - Cross

1 A. No.

2 Q. What is wrong about what I just said?

3 A. My understanding was Mr. Denbeaux wanted the meetings with  
4 the FBI to be kept confidential.

5 Q. So that Mr. Denbeaux wanted the fact that you had met  
6 confidential; is that what you're saying?

7 A. Yes.

8 Q. But he wasn't interested in confidentiality for what his  
9 client said at the meetings?

10 A. It wasn't discussed. It was just a two-sentence exchange.  
I think he said something along the lines of, will our meetings  
12 with the FBI be kept confidential? We said, yes.

13 Q. When you said yes, what did you mean by the word  
14 "confidential"?

15 A. That we would be keeping it confidential at that time.

16 Q. But what does the word "confidential" mean?

17 A. Kept quiet.

18 Q. Well, right now, you're talking about them in a public  
19 courthouse, and they're being recorded. Are you now violating  
20 that promise of confidentiality?

21 A. No.

22 Q. Why not?

23 A. It was never a promise.

24 Q. It wasn't a promise?

25 A. No.

J5DKKOU3

Costello - Cross

1 Q. So when you say to someone, this is going to be  
2 confidential, that's not a promise to you?

3 A. No. At that point, it was difficult -- excuse me, it  
4 wasn't difficult. We didn't know what was going to happen. We  
5 didn't know what Mr. Kourani was going to say, we didn't know  
6 what Mr. Denbeaux was going to say, and we had met in a public  
7 place, so...

8 Q. So wouldn't it have been more honest for you to have said,  
9 I don't know whether I can keep it confidential because I don't  
10 know what anyone's going to say at this meeting?

11 A. No.

12 Q. That would not have been more honest, in your mind?

13 A. I can't speak to what's more or less honest.

14 Q. Why can't you?

15 A. I don't really understand the question.

16 Q. You don't understand the question whether it's more honest  
17 to say to someone, in a human interaction, I don't know what's  
18 going to happen in the future, instead of misleading them? You  
19 don't know that?

20 A. I would not say we were misleading him. We answered him  
21 yes. And to say that more would also be more honest. Or  
22 honest, excuse me.

23 Q. But you didn't want to be fully honest, I assume, because  
24 you didn't want to scare away Mr. Kourani, right?

25 A. No.

J5DKKOU3

Costello - Cross

1 Q. Well, why weren't you more honest, then, if you weren't  
2 worried about scaring him away?

3 A. Again, we didn't know where the meetings were going to go.  
4 At that point, multiple members of the FBI had met with  
5 Mr. Kourani, and we hadn't received any information regarding  
6 his involvement with Hezbollah, and subsequent to that, we did  
7 interview multiple people in the community regarding  
8 Mr. Kourani.

9 Q. Okay. By the way, the multiple people you say you've  
10 interviewed, none of them is a witness here in court, right?

11 A. Not that I know of, no.

12 Q. Now, the confidentiality, though, that you promised --  
13 withdrawn.

14 Your use of the word "confidentiality" or  
15 "confidential" was done because you wanted to convince him to  
16 speak to you, right?

17 MS. HOULE: Objection.

18 THE COURT: Overruled.

19 THE WITNESS: No.

20 BY MR. SCHACHT:

21 Q. When Mr. Denbeaux handed you his page of notes, which is  
22 Government Exhibit 221, you mentioned that there were some  
23 things in it that you agreed with and some things you disagreed  
24 with, right?

25 A. Yes.

J5DKKOU3

Costello - Cross

1 Q. And one of the things you disagreed with was the line where  
2 Mr. Denbeaux says, "Because as it has already been agreed, he  
3 has committed no crime and faces no prosecution," you disagreed  
4 with that sentence, right?

5 A. Yes.

6 Q. But you and Agent Shannon, after going out in the hallway  
7 and discussing it together, decided that you would not say  
8 anything about that disagreement, right?

9 A. No.

10 Q. And your thinking at the time was, you were here at the  
11 meeting to hear what Ali Kourani had to say, right?

12 A. Yes.

13 Q. And you weren't interested in Mr. Denbeaux's thoughts at  
14 that time, right?

15 A. No.

16 Q. And that's despite --

17 THE COURT: No, you were not interested? We've got a  
18 double negative here.

19 THE WITNESS: We were there for Mr. Kourani's  
20 information, your Honor.

21 BY MR. SCHACHT:

22 Q. And you didn't care that Mr. Denbeaux, at least, was under  
23 the impression that there was some agreement that you had not  
24 agreed to?

25 A. No.

J5DKKOU3

Costello - Cross

1 Q. Were you not concerned about how that misunderstanding  
2 would affect Ali Kourani?

3 A. No.

4 Q. Because all you wanted was, at that point, his information,  
5 right?

6 A. Yes.

7 Q. Weren't you worried that, under those circumstances, he  
8 might tell you things that were not true?

9 A. I'm not sure I understand the question.

10 THE COURT: Were you worried that he might tell you  
11 things not true?

12 THE WITNESS: Anytime I interview someone, I'm worried  
13 they're not going to tell me the truth.

14 THE COURT: Say that again?

15 THE WITNESS: Anytime I would interview someone in the  
16 course of my official duties, I would be concerned whether  
17 they're telling me the truth or not.

18 THE COURT: What do you mean by "concerned"? You  
19 anticipate that that might happen?

20 THE WITNESS: Yes.

21 BY MR. SCHACHT:

22 Q. Would you agree that in your experience interviewing  
23 people, you're more likely to get honest information if there  
24 was a clear understanding between the people who were talking  
25 about what the consequences and the rules of the conversation

J5DKKOU3

Costello - Cross

1 are? Right?

2 A. No.

3 Q. Well, when you met with Peggy Cross-Goldenberg, and the  
4 prosecutors here in the courtroom, and my client, you had a  
5 written agreement about what could be used and said, right?

6 A. Yes.

7 Q. And you testified that that's an agreement that needs to be  
8 signed by a prosecutor, right?

9 A. Yes.

10 Q. And that agreement lays out how the information can be  
11 used, if at all, and under what circumstances, right?

12 A. Yes.

13 Q. It was discussed by Peggy Cross-Goldenberg, the two  
14 prosecutors, and Ali Kourani, right?

15 A. Yes.

16 Q. And that was in your presence?

17 A. Yes.

18 Q. And that was done so that Ali Kourani would understand what  
19 the rules of the conversation were, right?

20 A. Yes.

21 Q. Yet, when you, and Denbeaux, and Kourani spoke, there was  
22 in your mind, at least, a very clear misunderstanding about  
23 what the rules were, right?

24 A. No.

25 Q. No?

J5DKKOU3

Costello - Cross

1           Well, when you read that line that says, "He faces no  
2 prosecution," didn't you think that that was a misunderstanding  
3 between you and Denbeaux?

4 A. I didn't agree with the line. I can't speak to the  
5 understanding.

6           THE COURT: Well, if he had an honest understanding in  
7 what he wrote, and you had an honest understanding that was  
8 different, your understandings are not the same?

9           THE WITNESS: Yes, your Honor.

10          THE COURT: But you didn't know if he had an honest  
11 understanding of what he wrote?

12          THE WITNESS: Correct.

13          MR. SCHACHT: Thank you, your Honor.

14 BY MR. SCHACHT:

15 Q. Now, with regard to the assistance that my client wanted  
16 bringing his family to the United States, that's an area in  
17 which you say you were not authorized to make any promises  
18 because you need to go to another agency, right?

19 A. Yes.

20 Q. Among other reasons?

21 A. Yes.

22 Q. And that's why you and Denbeaux had the conversation, I  
23 think at the first meeting, that was followed by Denbeaux  
24 saying, I understand you can't guarantee or promise anything,  
25 right?

J5DKKOU3

Costello - Cross

1 A. No.

2 Q. No? Well, when -- withdrawn.

3 In the first meeting, Denbeaux and Kourani were  
4 pushing you to make promises, is that fair to say, about  
5 helping his family?

6 A. No.

7 Q. They weren't?

8 A. No.

9 Q. Were they asking for promises?

10 A. No.

11 Q. Were they asking for help?

12 A. Yes.

13 Q. And you told them that you can try to help, but that you  
14 can't promise; is that fair to say?

15 A. Yes.

16 Q. And they were pushing you, or at least Ali Kourani was  
17 pushing you, to give sort of on the calendar a deadline or a  
18 time period in which he could expect to get some relatives  
19 here, right?

20 A. Yes.

21 Q. And you and Agent Shannon didn't want to be pinned down,  
22 you testified, right, because you didn't know what you could  
23 do, and you didn't know what he was going to say; is that fair  
24 to say?

25 A. Yes.

J5DKKOU3

Costello - Cross

1 Q. So, at some point in that conversation, you called the  
2 supervisor, right?

3 A. Yes.

4 Q. And then was it in that same meeting where you gave, or you  
5 and Agent Shannon gave, a kind of rough deadline, or timeline,  
6 saying by the end of the summer of 2017, we might be able to  
7 help?

8 A. Not in those words, no.

9 Q. Do you recall what words you used?

10 A. Yes.

11 Q. What words did you use?

12 A. I was very specific that it wasn't a deadline, that it was  
13 not a --

14 THE COURT: You said it was an estimate, but what was  
15 the estimate?

16 THE WITNESS: End of summer.

17 THE COURT: Of 2017?

18 THE WITNESS: Yes, your Honor. So we were meeting in  
19 March, so August.

20 THE COURT: So if he gave you what you considered full  
21 and truthful information, you represented that you would  
22 advocate the position of Kourani with regard to immigration?

23 THE WITNESS: Yes. Yes, your Honor.

24 BY MR. SCHACHT:

25 Q. What was your basis for coming up with that estimate? Why

J5DKKOU3

Costello - Cross

1 did you say end of summer instead of one week or three years?

2 How did you come up with that timeline?

3 A. Just thinking how long it takes for people to get issued  
4 visas and my kind of understanding of it. You have interviews  
5 at the embassies of those who want the visas. Obviously, a lot  
6 of emails have to be exchanged, information exchanged of  
7 Mr. Kourani's information he's providing to multiple government  
8 agencies. And I've been working for the government for a  
9 little bit, so that stuff can take some time longer.

10 THE COURT: What was the date of the meeting when you  
11 made these representations?

12 THE WITNESS: It was -- if I saw my notes, I could  
13 remember better. I'm trying to remember the exact date, your  
14 Honor.

15 THE COURT: Not exactly, approximate.

16 THE WITNESS: March 23rd, 2017.

17 THE COURT: March of 2017?

18 THE WITNESS: Correct, your Honor.

19 THE COURT: And the end of the summer, let's say,  
20 would be September of 2017?

21 THE WITNESS: Sure. Yes, your Honor.

22 THE COURT: So about six months?

23 THE WITNESS: Yes.

24 THE COURT: To advocate a position, but you weren't in  
25 that advocate position until you got full and truthful

J5DKKOU3

Costello - Cross

1 information?

2 THE WITNESS: Yes, your Honor.

3 THE COURT: You didn't know when you'd get that?

4 THE WITNESS: Yes, your Honor.

5 THE COURT: So, from that time, it would take six  
6 months?

7 THE WITNESS: Yes. So, say in the course of that  
8 month, we had received full and truthful information, even  
9 then, still.

10 THE COURT: So he gave you a lot of information that  
11 particular evening when you were together with Professor  
12 Denbeaux in Seton Hall University?

13 THE WITNESS: Yes.

14 THE COURT: And you said, well, it's late, let's call  
15 it off, and we'll meet again, and you met a few days later?

16 THE WITNESS: Yes, your Honor.

17 THE COURT: I'm sorry, you go ahead.

18 BY MR. SCHACHT:

19 Q. How long after that meeting did Denbeaux send you that text  
20 message?

21 A. Approximately 15 minutes, if I recall.

22 Q. And that was -- according to those text messages that are  
23 in evidence, that was about 4:50 p.m. on that day? Does that  
24 sound right to you?

25 A. Yes.

J5DKKOU3

Costello - Cross

1 Q. Now, at each successive meeting, of the five meetings at  
2 Seton Hall, is it fair to say that Denbeaux and Kourani were  
3 becoming more and more impatient with you and Shannon not doing  
4 anything? Is that fair to say, to help the family get here?

5 A. No.

6 Q. Well, did you not have arguments with them about this topic  
7 specifically?

8 A. No.

9 Q. So when you got the text message from Denbeaux in which he  
10 says he's ashamed and how do you feel, did that come as a total  
11 shock to you, out of the blue, that he was speaking to you in  
12 that way?

13 A. Yes.

14 Q. Is it your testimony that between the March 23rd meeting  
15 and you getting that text message, that Kourani and Denbeaux  
16 never mentioned help with immigration in between those two  
17 events?

18 A. Oh, we discussed it, but there were never arguments.

19 Q. And the discussions involved Kourani and Denbeaux  
20 essentially accusing the FBI of dragging its feet, right?

21 A. No.

22 Q. What did the discussions involve?

23 A. Sometimes in the meetings, Mr. Kourani would say -- for  
24 example, I believe in the second meeting or the fourth  
25 meeting -- forgive me, I don't remember which exactly --

J5DKKOU3

Costello - Cross

1 Mr. Kourani said he wanted a doorman building in Manhattan or a  
2 salary, and so instead of talking about, say, immigration  
3 benefits, he would say that. I would remind Mr. Kourani that  
4 no matter what he wanted, whether it be immigration benefits or  
5 anything else, that we would need the whole and complete truth  
6 regarding his involvement with Hezbollah, and only then, could  
7 we advocate on his behalf.

8 THE COURT: You are starting to mumble.

9 THE WITNESS: Sorry.

10 Restate everything, your Honor?

11 THE COURT: Pardon?

12 THE WITNESS: Would you like me to restate everything?

13 THE COURT: No, no, just --

14 BY MR. SCHACHT:

15 Q. When he asked you for a doorman building in Manhattan, did  
16 that strike you as similar to the situation where he was asking  
17 you for help in getting a job, it was highly unusual?

18 A. I don't really understand the question.

19 Q. Well, have you ever had anybody in your career who was a  
20 witness ask you for a doorman building in Manhattan, from the  
21 FBI?

22 A. Not that I recall, no.

23 Q. And so when he asked you, can you get him a doorman  
24 building in Manhattan to live in, didn't that strike you as  
25 unusual, in your experience?

J5DKKOU3

Costello - Cross

1 A. No, not at that point.

2 Q. That struck you as a kind of normal demand for somebody in  
3 his situation, who's just told you, according to you, that he's  
4 a terrorist?

5 A. No.

6 Q. That didn't seem strange to you?

7 A. No. I'm saying that is a little unusual, but it was more  
8 in line with a lot of his demands, so...

9 Q. Which would be unusual, right?

10 A. Compared to the others, yes.

11 Q. You've testified here that he told you, essentially, that  
12 he was working for a foreign terrorist organization, right?

13 A. Yes.

14 Q. And, at the same time, he's asking you for a doorman  
15 building in Manhattan, right?

16 A. Yes.

17 Q. And he's asking you to help get him a job that pays  
18 approximately \$120,000 a year?

19 A. Yes.

20 Q. And he's asking you to bring a lot of relatives here,  
21 including one, his father, who's barred from the United States  
22 for ten years, right?

23 A. No.

24 THE COURT: No what?

25 THE WITNESS: My understanding is his father could be

J5DKKOU3

Costello - Cross

1 paroled.

2 BY MR. SCHACHT:

3 Q. Other than the father being able to be paroled in,  
4 everything else about my question, you'd agree with, right?

5 A. He had discussed his father being brought here, yes.

6 Q. So everything about that question, you'd agree with, right?

7 I can redo it.

8 A. Please.

9 Q. He told you he worked for Hezbollah and the Islamic Jihad  
10 Organization, correct?

11 A. Yes.

12 Q. And at the same time, literally in the same meeting, he's  
13 asking you to get him an apartment with a doorman?

14 A. Yes.

15 Q. And he's asking you to help bring his family here?

16 A. Yes.

17 Q. And he's asking you to help get him a \$120,000-a-year job  
18 in New York City, right?

19 A. Yes.

20 Q. And so my question is: In that context, you've never, ever  
21 spoken to a witness or a suspect who's behaved in that strange  
22 a way, right?

23 A. No.

24 THE COURT: No, you haven't?

25 THE WITNESS: No, I have spoken --

J5DKKOU3

Costello - Cross

1                   THE COURT: You have?

2                   THE WITNESS: Yes.

3 BY MR. SCHACHT:

4 Q. You've met other people who've told you they're members of  
5 Islamic Jihad?

6                   THE COURT: I don't think we need to get into that.

7 Q. Were you worried at all --

8                   THE COURT: Did the request that Denbeaux made or  
9 Kourani made seem strange to you?

10                  THE WITNESS: Which specific?

11                  THE COURT: The request that the FBI should get him a  
12 \$120,000 job and find him an apartment in a very nice  
13 neighborhood in Manhattan with a doorman?

14                  THE WITNESS: Yes.

15                  THE COURT: That's strange?

16                  THE WITNESS: Yes, your Honor.

17                  THE COURT: Did you ever get that kind of request  
18 before?

19                  THE WITNESS: No, your Honor.

20                  THE COURT: Is that what you wanted, Mr. Schacht?

21                  MR. SCHACHT: Thank you, your Honor. Thank you very  
22 much.

23                  THE COURT: No charge.

24 BY MR. SCHACHT:

25 Q. You were considering, if he was, in your view, fully

J5DKKOU3

Costello - Cross

1 honest, having Mr. Kourani be an informant for the FBI, right?

2 A. No.

3 Q. Well, what was your purpose in speaking to him?

4 A. To obtain all the information he had regarding his  
5 involvement with Hezbollah.

6 Q. And so there was no thought, in your mind, about maybe he  
7 can help you to work against Hezbollah?

8 A. There was.

9 Q. And so maybe I shouldn't have used the word "informant,"  
10 but you were seeking his help to help you fight against  
11 Hezbollah?

12 A. I was seeking his information.

13 Q. Well --

14 THE COURT: So you could --

15 THE WITNESS: Yes.

16 THE COURT: -- potentially make use of it?

17 THE WITNESS: Yes, to counter Hezbollah.

18 THE COURT: On behalf of the United States?

19 THE WITNESS: Yes, your Honor.

20 BY MR. SCHACHT:

21 Q. And when you were telling him that it was possible that you  
22 could provide him with certain benefits, you were telling him  
23 the truth, right?

24 A. Yes.

25 Q. You weren't lying to him about possible ways you could help

J5DKKOU3

Costello - Cross

1 him, right?

2 A. No.

3 Q. You could only do that, though, it's your testimony, if he  
4 became fully honest and a witness or informant, whatever word  
5 you prefer, for the government, right?

6 A. Yes.

7 Q. And so --

8 A. If I may?

9 Q. No. She can ask you on redirect.

10 At the time that he was arrested, the morning he was  
11 arrested, there was a complaint signed by you against him,  
12 right?

13 A. Yes.

14 Q. And that complaint was sealed, yes?

15 A. Yes.

16 Q. And sealed, in this context, means not open to the public?

17 A. Yes.

18 Q. And it was kept sealed for -- I'm not sure how many days,  
19 but at least until after the meeting that you and Peggy  
20 Cross-Goldenberg, and the prosecutors, and Mr. Kourani had,  
21 right?

22 A. Yes.

23 Q. And the reason why you kept it sealed -- when I say "you,"  
24 I mean the United States kept it sealed -- was to preserve the  
25 possibility of him still being able to be a witness, right?

J5DKKOU3

Costello - Cross

1 A. Yes.

2 Q. And then, eventually, it was unsealed, correct?

3 A. Yes.

4 Q. In all of these interactions at the five meetings that  
5 we've discussed at Seton Hall, were you concerned -- based upon  
6 his answers to your questions and his requests of you, were you  
7 concerned at all about his mental state?

8 A. I don't understand the question.

9 Q. Were you concerned about his mental stability, whether he  
10 could be a good informant or witness?

11 A. No.

12 Q. Were you concerned about his ability to operate as an  
13 informant for you based upon your interviews with him?

14 A. No.

15 Q. Did you not think that his conduct in, for example, using  
16 an Ali Kourani Gmail account, supposedly to be a Hezbollah  
17 agent, was indicative of his lack of seriousness?

18 A. No.

19 Q. Did you think that his operating a counterfeit clothing  
20 business while supposedly a sleeper agent for Hezbollah, that  
21 that was indicative of his inability to be a reliable witness?

22 A. No.

23 Q. During these five meetings, you did not ask him, did you,  
24 for any supporting evidence to support -- physical evidence --  
25 to support the evidence that he was ever a member of 910,

J5DKKOU3

Costello - Redirect

1 right?

2 A. No.

3 MR. SCHACHT: I have no other questions. Thank you.

4 THE COURT: Redirect?

5 MS. HOULE: Just briefly. Thank you, your Honor.

6 REDIRECT EXAMINATION

7 BY MS. HOULE:

8 Q. Special Agent, you were asked some questions about your  
9 conversations with the defendant regarding the term "sleeper  
10 cell"?

11 A. Yes.

12 Q. And you were asked whether there was additional  
13 conversation having to do with Mossad and sleeper cells, right?

14 A. Yes.

15 Q. To be clear, what did the defendant say about his function  
16 within a sleeper cell?

17 A. The defendant stated he considered himself a part of a  
18 sleeper cell.

19 Q. You were asked some questions, Special Agent, about the  
20 complaint being sealed in this case?

21 A. Yes.

22 Q. And that there was a time when the complaint was unsealed,  
23 correct?

24 A. Yes.

25 Q. Why was the complaint unsealed at that point?

J5DKKOU3

Costello - Recross

1 A. At that point, we had assessed that the defendant was still  
2 withholding information regarding his involvement with  
3 Hezbollah.

4 THE COURT: Speak clearly.

5 THE WITNESS: At that point, we, in accordance with  
6 the United States Attorney's Office, felt the defendant was  
7 still withholding information regarding his involvement with  
8 Hezbollah.

9 THE COURT: He had more to tell you?

10 THE WITNESS: Yes, your Honor.

11 THE COURT: And you felt he hadn't given it to you?

12 THE WITNESS: Yes, your Honor.

13 MS. HOULE: No further questions, your Honor.

14 MR. SCHACHT: Very briefly, your Honor.

15 RECROSS EXAMINATION

16 BY MR. SCHACHT:

17 Q. You felt like he wasn't being honest with you, right?

18 A. No.

19 MR. SCHACHT: Thank you.

20 MS. HOULE: Very briefly, your Honor?

21 THE COURT: Okay.

J5DKKOU3

Costello - Recross

1 REDIRECT EXAMINATION

2 BY MS. HOULE:

3 Q. You were just asked whether you thought the defendant was  
4 being honest with you, Special Agent. Did you think he was  
5 being honest about his operations within Hezbollah?

6 A. He was being honest, yes. There was a bit -- yes, he was  
7 being honest.

8 THE COURT: He was telling you --

9 THE WITNESS: He was telling us the truth.

10 THE COURT: What he told you was true, but he also had  
11 more information to give?

12 THE WITNESS: Yes, your Honor.

13 MS. HOULE: Thank you, your Honor. No further  
14 questions.

15 THE COURT: Who gets the last word? Who asks the last  
16 question.

17 RECROSS EXAMINATION

18 BY MR. SCHACHT:

19 Q. You felt that he was being honest, even though you had been  
20 following him for a couple of years and couldn't come up with  
21 any evidence against him?

22 MS. HOULE: Objection.

23 THE COURT: Sustained.

24 MR. SCHACHT: No further questions.

25 THE COURT: Okay. You're excused.

J5DKKOU3

1           THE WITNESS: Thank you, your Honor. Thank you.

2           (Witness excused)

3           THE COURT: Should we start a new witness now or after  
4 lunch?

5           MR. BOVE: The next witness is about half an hour,  
6 Judge. It might be a good time for a lunch break.

7           THE COURT: Okay. Let's take a lunch break now, until  
8 2:15. Close up your books give them to Ms. Jones.

9           (Continued on next page)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

J5DKKOU3

1 (Jury not present)

2 THE COURT: Be seated. I want to ask you a question.

3 Attempt to commit a crime is alleged in Count One and  
4 Count Six of the indictment. Is there really a case for  
5 attempt?

6 MS. HOULE: Your Honor, we do believe that it's  
7 appropriate to have an attempt instruction here. The defense  
8 appears to be arguing that the defendant did not do much on  
9 behalf of Hezbollah and --

10 THE COURT: Does it make any difference if he did much  
11 or little?

12 MS. HOULE: We agree, your Honor, but we think that  
13 argument could be confusing to the jury, so they should  
14 understand that even an attempt would be sufficient to find him  
15 guilty.

16 THE COURT: But we're charging aiding and abetting and  
17 willfully causing. I fear that the prolixity of all these  
18 instructions and their contention of what should be found is  
19 potentially confusing. Do you have any opinion on this,  
20 Mr. Schacht?

21 MR. SCHACHT: I mean, yes, Judge. And my opinion -- I  
22 was rereading the indictment last night -- is it's really long,  
23 and some of the charges -- obviously, they have separate legal  
24 elements, and they're technically legal, but I just think it  
25 will bring more confusion to the jury. I'm not expecting the

J5DKKOU3

1 government to consent to dismiss any counts, but --

2 THE COURT: My feeling is that either he did it or he  
3 didn't do it, and --

4 MS. HOULE: Your Honor, you separately raised the  
5 aiding and abetting instruction, which the government would  
6 agree that that's not necessary to provide to the jury, but we  
7 do think that the attempt instruction is important.

8 THE COURT: If I can eliminate aiding and abetting and  
9 willfully causing, I can deal with the situation. I don't  
10 think the jury will be confused.

11 MS. HOULE: Thank you, your Honor.

12 THE COURT: So I should --

13 MS. HOULE: We will have the attempt instruction, but  
14 not the aiding and abetting instruction?

15 THE COURT: Yes. There's also willfully causing.

16 MS. HOULE: Right. That's fine, your Honor.

17 THE COURT: So we'll just deal with the crime itself,  
18 the conspiracy to commit the crime, which is Count Two and  
19 Count Four, and the attempt to commit the crime.

20 MS. HOULE: Yes, your Honor.

21 THE COURT: Okay.

22 MS. HOULE: Thank you.

23 THE COURT: Are you all right, Mr. Schacht?

24 MR. SCHACHT: Yes. Thank you very much, Judge.

25 THE COURT: That is okay?

J5DKKOU3

1 MR. SCHACHT: Yes. Thank you, your Honor.

2 THE COURT: Thank you.

3 See you after lunch.

4 Another question: I want to read the indictment. I  
5 think the indictment is a very difficult document to  
6 understand. And the way we did it -- you can sit -- the way we  
7 did it in the voir dire seemed to me to be accurate. You can  
8 deal with that when we come together for the charging  
9 conference, so you might have that in mind, or you can give me  
10 a pared-down indictment that I can read.

11 MS. HOULE: Okay. Thank you, your Honor. We'll  
12 discuss it with defense counsel.

13 THE COURT: I'd like to read the substantive  
14 paragraphs. I don't mean to exclude conspiracy. As I raise a  
15 count, I want to read that specific aspect of the indictment,  
16 so if you can give me a pared-down indictment without the  
17 emotive words, just the crime alleged, that would be good. Can  
18 you do that?

19 MS. HOULE: Yes, your Honor.

20 THE COURT: Great. Okay, thanks.

21 MR. SCHACHT: Thank you.

22 Are we done? May I leave, your Honor?

23 THE COURT: Yes.

24 MS. HOULE: Your Honor, may we have one moment?

25 (Pause)

J5DKKOU3

1 MS. HOULE: Your Honor, I just want to make sure that  
2 we understand the request. So what your Honor is proposing is  
3 that we would provide you a copy of the indictment that just  
4 has the statutory allegations without, for example, the to wit  
5 clauses and the overt acts alleged?

6 THE COURT: I'm not directing you what to do, and you  
7 may not be able to do it, but if you can eliminate that which  
8 is not necessary in the indictment, so I can read something  
9 intelligent to the jury, that would be helpful.

10 It would be good, also, if there was agreement between  
11 counsel as to what properly should be read.

12 MS. HOULE: Thank you, your Honor.

13 So we'll confer with defense counsel and come up with  
14 a proposal for what your Honor would read from the indictment  
15 in connection with the instruction on each charge.

16 THE COURT: Yes. Thank you.

17 MS. HOULE: Understood.

18 THE COURT: I'm not directing you. I'm making this as  
19 a suggestion.

20 MS. HOULE: Thank you, your Honor.

21 THE COURT: Thanks.

22 All right. We're breaking for lunch.

23 (Luncheon recess)

J5DAAKOU4

Shields - Direct

1 AFTERNOON SESSION

2 2:15 p.m.

3 THE COURT: Be seated.

4 Ms. Houle, how do you attempt to procure  
5 naturalization fraud?6 MS. HOULE: By filing a fraudulent application, your  
7 Honor.8 THE COURT: How do you attempt to provide substantial  
9 assistance to a terrorist organization? I'm failing to  
10 understand the concept and I'd like some help at the end of the  
11 session today.

12 MS. HOULE: Understood, your Honor.

13 THE COURT: OK. Shall we get the jury?

14 MR. BOVE: Yes, your Honor.

15 THE COURT: Are we going to finish today?

16 MR. BOVE: I expect so. There are two witnesses left,  
17 Margaret Shields, whose direct examination is about a half an  
18 hour and David Smith from the ATF. His direct is also about a  
19 half hour or 40 minutes.

20 THE COURT: We have no witnesses now on the stand?

21 MR. BOVE: That's correct.

22 THE COURT: So, the next witness will be?

23 MR. BOVE: Margaret Shields.

24 THE COURT: Where is she? Right here. OK. Come up.

25 MR. BOVE: Thank you, judge.

J5DAAKOU4

Shields - Direct

1 (Jury present)

2 THE COURT: Be seated, everyone.

3 Mr. Bove has the next witness, Ms. Margaret Shields,  
4 and first Ms. Jones will swear Ms. Shields.

5 MARGARET SHIELDS,

6 called as a witness by the Government,

7 having been duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. BOVE:

10 Q. Ms. Shields, where do you work?

11 A. I work at the United States Attorney's Office.

12 Q. And how long have you worked at U.S. Attorney's Office?

13 A. About a year and a half.

14 Q. What's your title there right now?

15 A. I am a paralegal specialist.

16 Q. For about how long have you been a paralegal at the U.S.  
17 Attorney's Office?

18 A. For about a year now.

19 Q. What did you do before that?

20 A. I was a college student.

21 Q. Now, in addition to your work in a courtroom for this trial  
22 did you also prepare some summary charts?

23 A. Yes, I did.

24 Q. Did some of those charts relate to the evidence of the  
25 internet activity after defendant's laptop and e-mail account?

J5DAAKOU4

Shields - Direct

1 A. Yes, they do.

2 MR. BOVE: So, I'd like to start by taking a look at  
3 one of the reports that's in evidence relating to the laptop.  
4 This is Government Exhibit 302.

5 Mr. DeLuca, if could you bring that up. We are going  
6 to start by focusing on a section of the report titled  
7 classified URLs. If you could zoom-in on that section of the  
8 report, Mr. DeLuca, please.

9 I think there's a problem with one of the monitors,  
10 judge.

11 (Pause)

12 THE JUROR: Thank you, judge.

13 MR. BOVE: Thank you, your Honor.

14 BY THE COURT:

15 Q. Ms. Shields, we're looking at a section of the report  
16 relating to the laptop on this title "classified URLs". Do you  
17 see that on the top left?

18 A. Yes.

19 Q. And now I'd like you to focus on the column that's titled  
20 "URL"; do you see it?

21 A. Yes.

22 Q. Did you take any steps with the links in this part of the  
23 report?

24 A. I copied those URLs and pasted them into a web browser.

25 Q. What, if anything, did you do after you put those links in

J5DAAKOU4

Shields - Direct

1 web browser?

2 A. I saved the web page as a PDF.

3 Q. Did you do that with respect to other parts of the report?

4 A. Yes, I did.

5 Q. What, if anything, did you do if you encountered a video  
6 link?

7 A. When there was a video link I downloaded the video and  
8 saved it.

9 Q. So, this is government 302 on the screen. I'm going to  
10 hand you a disk that's marked for identification as Government  
11 Exhibit 302A.

12 Do you recognize that?

13 A. Yes.

14 Q. What is 302A?

15 A. 302A is a disk that contains the PDFs that I downloaded, as  
16 well as the videos that I downloaded from the report that is  
17 Government Exhibit 302.

18 Q. How are the files named on the 302A?

19 A. They're named after the record number in 302.

20 Q. Did some of the materials that were loaded onto that disk  
21 contain foreign language?

22 A. Yes, they did.

23 Q. And are there translations also included on that disk?

24 A. Yes, they are.

25 MR. BOVE: Your Honor, I offer 302A.

J5DAAKOU4

Shields - Direct

1 THE COURT: A summary?

2 MR. BOVE: Yes, your Honor.

3 THE COURT: Mr. Schact.

4 MR. SCHACHT: I apologize. The actual disk is 302A?

5 THE WITNESS: Yes.

6 THE COURT: You are going to do something more with  
7 that, right?

8 MR. BOVE: Yes. We are going to review the content of  
9 the disk, your Honor.

10 MR. SCHACHT: No objection.

11 THE COURT: Received.

12 (Government's Exhibit 302A received in evidence)

13 Q. Now, Ms. Shields, I'd like to you focus on --

14 THE COURT: This is a disk that has on it only the  
15 URLs mentioned in Exhibit 302?

16 MR. BOVE: The testimony, your Honor, is that it  
17 contains the actual websites that are at the address that's in  
18 this report.

19 THE COURT: OK. How is the jury going to deal with a  
20 disk?

21 MR. BOVE: We'll make a laptop available during  
22 deliberations. It'll have nothing on it and they will be able  
23 to load the disk into the laptop and look at the contents.

24 THE COURT: Is that the first time they are going to  
25 see that or you are going to tell them now what you want them

J5DAAKOU4

Shields - Direct

1 to know?

2 MR. BOVE: We are going to go through the disk right  
3 now?

4 THE COURT: Presumably, the information that they get  
5 from the witness now will be sufficient to allow them to  
6 deliberate.

7 MR. BOVE: That is my hope, between that and my  
8 summation, judge.

9 THE COURT: It seems to me if they have more  
10 information, rather than give a disk into the jury room, the  
11 jury should come out and ask what they want to see and we'll  
12 show it to them.

13 MR. BOVE: That seems like a very reasonable approach.

14 THE COURT: Wonderful. Thank you.

15 I love it when lawyers think what I do is wonderful.

16 Go ahead, Mr. Bove.

17 Q. Let's start by focusing on record 164 on the screen is this  
18 one of the links that you navigated to?

19 A. Yes, it is.

20 MR. BOVE: Mr. DeLuca, could you please bring up that  
21 document from Government Exhibit 302A.

22 (Pause)

23 MR. BOVE: And zoom-in on the top part please.

24 (Pause)

25 Q. What is this web page?

J5DAAKOU4

Shields - Direct

1 A. This is an eBay search result for search term "gun".

2 MR. BOVE: Now, let's go back to the laptop report  
3 302. If could you bring up the safari history section and I'd  
4 like to focus on record 46923 please.

5 (Pause)

6 Q. Ms. Shields, do you see the link on the right side of the  
7 screen?

8 A. Yes.

9 Q. Is that another one of the links that's included on the  
10 disk 302A?

11 A. Yes, it is.

12 MR. BOVE: Mr. DeLuca, could you please bring up that  
13 document.

14 (Pause)

15 MR. BOVE: Zoom-in on the text, please.

16 Q. What is the date on the top of this document?

17 A. December 1, 2013.

18 Q. Could you please read the first two lines below the date?

19 A. Mossad ordered this file received a copyright violation of  
20 assassination and brutality program.

21 MR. BOVE: Let's take a look at page two please and if  
22 you could zoom-in on the note.

23 Q. How did you access this part of the document?

24 A. When I opened the PDF there was an icon reflecting that  
25 there was that comment in the document, so I clicked on that

J5DAAKOU4

Shields - Direct

1 and this pop up opened up.

2 Q. What is the date in the top of the note?

3 A. March 22, 2013.

4 Q. Could you please read the two lines below the date?

5 A. The Israeli Intelligence Agency has been intact and hacked  
6 by activist groups and Sector 404 and anonymous.

7 Q. Could you please read the last two lines on this note?

8 A. The leaked data includes addresses, phone numbers and  
9 general contact information regarding Mossad agents.

10 MR. BOVE: Mr. DeLuca, could you please zoom back out.

11 Q. Ms. Shields, there's a lot of black space on this document;  
12 do you see that?

13 A. Yes.

14 Q. How did it get there?

15 A. I redacted the document.

16 Q. Before you redacted the document did you review it?

17 A. Yes.

18 Q. And what did you see in each row before you added the  
19 redaction boxes?

20 A. Personal identifying information such as names, addresses,  
21 phone numbers and e-mail address.

22 Q. About how many pages are there in this document?

23 A. There are 418 pages.

24 MR. BOVE: Mr. DeLuca, could you take us to page 418  
25 please.

J5DAAKOU4

Shields - Direct

1 (Pause)

2 Q. So, did you redact all of the personal identifying  
3 information for this document?

4 A. Yes.

5 MR. BOVE: Mr. DeLuca, could you zoom-in on the row  
6 number on the left.

7 Q. How many rows were in this document?

8 A. 35,037.

9 MR. BOVE: Let's go back to the "safari history"  
10 section of the laptop report Government Exhibit 302. If you  
11 could zoom-in on record 115108.

12 (Pause)

13 Q. Directing your attention to the right side of the screen  
14 are parts of the title of this video's narrative; do you see  
15 that?

16 A. Yes.

17 Q. Is there a translation of that title?

18 A. Yes, there is.

19 MR. BOVE: Mr. DeLuca, could you bring up page five  
20 please of 302T, so we could take a look at translation. And if  
21 you could zoom-in on the top row and include the column titles.

22 (Pause)

23 Q. How is this document prepared?

24 A. I prepared this document by copying the Arabic language  
25 from the Government Exhibit marked 302 and then send it to a

J5DAAKOU4

Shields - Direct

1 translator who filled in the translation column.

2 Q. Are these translations part of the stipulation that was  
3 read earlier at trial that the translations are accurate?

4 A. Yes.

5 MR. BOVE: Mr. DeLuca, if could you highlight the  
6 translated title of record 115108.

7 Q. What's the translation of that title?

8 A. The servant of the honorable resistance Hassan Nasrallah  
9 Fayed Hassan Nasrallah YouTube.

10 MR. BOVE: Mr. DeLuca, could you please zoom in on the  
11 translation of record 80720 on this page.

12 (Pause)

13 Q. Focusing on the right side of the screen, Ms. Shields, what  
14 the translated title of this video?

15 A. YouTube Hezbollah tactics during July war live action July  
16 war.

17 MR. BOVE: Now, Mr. DeLuca, let's take a look at page  
18 one of this exhibit. If you could zoom-in please on the search  
19 term and the URL for record 1063. Let start with just the  
20 search term in the URL please.

21 (Pause)

22 Q. So, did you obtain a translation for the word after  
23 Hezbollah here on the screen?

24 A. Yes, I did.

25 MR. BOVE: Mr. DeLuca, if you could zoom-in on the far

J5DAAKOU4

Shields - Direct

1 side of this row so we could take a look at the translation.

2 Q. What was the translation of this title?

3 A. Hezbollah eulogies.

4 MR. BOVE: Mr. DeLuca, let's take a look at page six  
5 of this exhibit and zoom-in on this row.

6 (Pause)

7 Q. Let's focus again on the translation column. What is the  
8 translation of the title of this YouTube video?

9 A. Hezbollah Marter Funeral. Hezbollah YouTube.

10 MR. BOVE: Now, I'd like to go back to page five for a  
11 minute and let's zoom in again on record 5108.

12 (pause)

13 Q. You testified about this record a moment ago. Were you  
14 able to access the YouTube link that's here on the screen?

15 A. Yes, I was.

16 Q. And is that a video that you put on 302A, the disk that's  
17 on the witness stand?

18 A. Yes, it was.

19 MR. BOVE: Mr. DeLuca, could you please play the first  
20 24 seconds of the video.

21 (Video playing)

22 MR. BOVE: That's fine to play without the audio.  
23 We'll take a look at the translation. You can stop it there.

24 Q. Ms. Shields, who is the speaker in this segment of the  
25 video?

J5DAAKOU4

Shields - Direct

1 A. That is Hassan Nasrallah.

2 Q. There's a graphic in the top left corner; do you see that?

3 A. Yes.

4 Q. Who is in the top left corner?

5 A. That is Imad Mughnayeh.

6 Q. There's an image or a logo on the top right of the screen.

7 Do you recognize that?

8 A. I do that is Al-Manar logo.

9 Q. What about the flags behind the Al-Manar logo?

10 A. The flag on the right is the Hezbollah flag and the flag on  
11 left is the Lebanon flag.

12 Q. Now, on the issue of Al-Manar logo --

13 MR. BOVE: Mr. DeLuca, could you please bring up the  
14 stipulation marked 1001 on page two.

15 (Pause)

16 MR. BOVE: And zoom-in on paragraph four and highlight  
17 the first sentence.

18 (Pause)

19 MR. BOVE: Now, Mr. DeLuca, if you could play the rest  
20 of that video please.

21 (Video playing)

22 MR. BOVE: Thank you.

23 Q. Was there a translation of the audio of that video  
24 prepared?

25 A. Yes, there was.

J5DAAKOU4

Shields - Direct

1                   MR. BOVE: Mr. DeLuca, could you bring up the  
2 translation of the video.

3                   (Pause)

4 Q. So, the first page identifies the top participants as  
5 Hassan Nasrallah; do you see that?

6 A. Yes.

7                   MR. BOVE: Take a look at page two please.

8                   And, Mr. DeLuca, if could you zoom-in on the  
9 participant in the translation so that the jurors can read the  
10 English, just the translation. Thank you.

11                  (Pause)

12                  MR. BOVE: I'll ask the jurors to look up when they're  
13 done.

14                  THE COURT: -- is Hassan testimony identify whether  
15 Hassan Nasrallah is mentioned in the first column on the left  
16 and Hussein on right side of row four are the same people?

17                  MR. SCHACHT: Objection, your Honor.

18                  MR. BOVE: There is no testimony on that issue.

19                  THE COURT: I'm asking if there is anything in the  
20 record.

21                  MR. BOVE: There is not.

22                  May I proceed, judge?

23                  THE COURT: One minute.

24                  (Pause)

25                  THE COURT: Look up when you're ready.

J5DAAKOU4

Shields - Direct

1 Yes, you may proceed.

2 MR. BOVE: Thank you.

3 Mr. DeLuca, you can take that down.

4 Q. Ms. Shields, I've placed on the witness stand a document  
5 marked for identification as Government Exhibit 911; do you  
6 recognize that?

7 A. Yes, I do.

8 Q. What is 911?

9 A. This is a summary chart that I prepared after reviewing  
10 documents from the Department of State and the department, the  
11 U.S. Customs and Immigration Services.

12 Q. Is that chart based on documents that are in evidence at  
13 the trial?

14 A. Yes.

15 Q. That were offered during the testimony on Thursday of  
16 Mr. Hansen?

17 A. Yes.

18 Q. Is Government Exhibit 911 a fair and accurate summary of  
19 those voluminous records?

20 A. Yes.

21 MR. BOVE: Your Honor, I offer Government Exhibit 911  
22 as a summary chart.

23 MR. SCHACHT: Brief voir dire, your Honor?

24 THE COURT: Go ahead.

25 VOIR DIRE EXAMINATION

J5DAAKOU4

Shields - Direct

1 BY MR. SCHACHT:

2 Q. Just to be clear, Ms. Shields, what you've done is you've  
3 taken out certain aspects of those documents that are  
4 summarized in here. So, you haven't merely reproduced every  
5 single thing in those documents; is that fair to say? Is that  
6 clear? Do you understand that?

7 A. Correct. It's a selection from those documents.

8 MR. SCHACHT: Thank you. I have no objection.

9 THE COURT: Proceed.

10 MR. BOVE: Mr. DeLuca, could you please bring up 911.

11 (Pause)

12 MR. BOVE: So, let's start by zooming in on line four.

13 (Pause)

14 Q. What's indicated here?

15 A. This, I believe, indicates that on April 30, 2001 Wanda  
16 Reyes filed a petition for alien relative and related  
17 application for an immigrant visa on behalf of Mohammad  
18 Kourani.

19 MR. BOVE: Mr. DeLuca, if you could bring up page two  
20 please and zoom-in on row five.

21 (Pause)

22 Q. Ms. Shields, what's indicated on this date?

23 A. This indicates that on December 31, 2001 Wanda Reyes filed  
24 a petition for alien relative on behalf of the defendant in the  
25 right column indicates the Government Exhibit number that that

J5DAAKOU4

Shields - Direct

1 information came from.

2 MR. BOVE: Page four please, Mr. DeLuca.

3 (Pause)

4 MR. BOVE: Zoom-in on row 13.

5 Q. What is this one of, Ms. Shields?

6 A. This indicates that on July 16, 2003, the United States  
7 issued an immigrant visa to the defendant based on the category  
8 immediate relative to relating to Wanda Reyes.

9 MR. BOVE: Could we take a look at page five please,  
10 Mr. DeLuca, and now zoom-in on row 15.

11 (Pause)

12 Q. What is this one, Ms. Shields?

13 A. This indicates that on July 30, 2003, the defendant departs  
14 Lebanon and entered the United States using an immigrant visa  
15 at John F. Kennedy International Airport.

16 Q. Did you include information in this chart about the  
17 defendant's application for naturalization?

18 A. Yes, I did.

19 MR. BOVE: Mr. DeLuca, could you please take us to  
20 page nine and zoom-in on row 33.

21 (Pause)

22 Q. What does this one way?

23 A. On August 18, 2008, the defendant filed and/or submitted an  
24 application for naturalization as a U.S. citizen.

25 Q. So, the exhibit referenced there is Government Exhibit 608?

J5DAAKOU4

Shields - Direct

1 A. Yes.

2 MR. BOVE: Let's take a look at that briefly.

3 Mr. DeLuca, could you bring up 608 page two.

4 (Pause)

5 Q. Is this that application, Ms. Shields?

6 A. Yes, it is.

7 MR. BOVE: Mr. DeLuca, if you could turn to page eight  
8 of the exhibit and zoom-in on Question nine.

9 (Pause)

10 Q. Ms. Shields, what was Question 9C in the application?

11 A. Question 9C is:

12 Have you ever been a member or in any way associated  
13 with a terrorist organization?

14 Q. How did the defendant answer that question in this  
15 application, Government Exhibit 608?

16 A. He answered "no".

17 MR. BOVE: Mr. DeLuca, if we could go back to the  
18 summary chart 911 and refer to page nine -- excuse me -- page  
19 11.

20 (Pause)

21 MR. BOVE: Please, zoom-in on pages 40 and 41.

22 Q. What is indicated here, Ms. Shields?

23 A. This I believe indicates that on April 15, 2009, the  
24 defendant was naturalized as a U.S. citizen and on the same  
25 date the defendant applied for a U.S. passport.

J5DAAKOU4

Shields - Direct

1 Q. I'm going to hand you another chart. This one is marked  
2 for identification as Government Exhibit 902. Do you recognize  
3 that?

4 A. Yes, I do.

5 Q. What is that exhibit?

6 A. This is a chart that I prepared based on the Internet  
7 activity associated with Ali.M.kourani@GMail.com which is  
8 reflected in the Government Exhibit 401-C.

9 Q. How did you prepare 902, the chart?

10 A. I prepared the chart by taking the data from Government  
11 Exhibit 401C and adding it into the time column and then the  
12 search term "column". And then if the search term "column"  
13 contained foreign language, I copied that foreign language into  
14 the transcription column and sent it to the translator who  
15 filled in the translation column.

16 Q. Does Government Exhibit 902 fairly and accurately show  
17 internet activity from the e-mail account  
18 Ali.M.kourani@GMail.com?

19 A. Yes.

20 Q. Does it also include fair and accurate translations of  
21 certain of that internet activity?

22 A. Yes.

23 MR. BOVE: Your Honor, the government offers 902.

24 MR. SCHACHT: No objection.

25 THE COURT: Received.

J5DAAKOU4

Shields - Direct

1 (Government's Exhibit 902 received in evidence)

2 MR. BOVE: Mr. DeLuca, could you please bring up that  
3 exhibit. If you could zoom-in on the top.

4 Q. Could you please explain to the jury what the column titles  
5 are?

6 A. The first column is the line number. The second column is  
7 the timestamp. That is the time that the search or the web  
8 page visit happened. The third column is the search term which  
9 is taken from the Internet activity. The fourth column is the  
10 transcription column which contains the foreign language that I  
11 found when copying the links into the Google browser. And the  
12 fifth column is the translation column that was prepared by the  
13 translator.

14 Q. Did you visit any of the links that are reflected in the  
15 search term column here?

16 A. Yes, I did.

17 Q. I am showing you another disk. This one is marked as 902

18 A. What is 902A?

19 A. 902A contains PDFs of the, we believe pages that I visited,  
20 as well as videos that I downloaded and their respective  
21 translation.

22 MR. BOVE: Your Honor, the government offers 902A.

23 MR. SCHACHT: No objection.

24 THE COURT: Received.

25 (Government's Exhibit 902A received in evidence)

J5DAAKOU4

Shields - Direct

1 Q. Now are the files on the disk 902 A named?

2 A. They're named after the line number in 902.

3 MR. BOVE: Mr. DeLuca, if you could bring up 902 the  
4 chart again and let's take a look at page two. If you could  
5 zoom-in on line 21 please.

6 (Pause)

7 Q. Why is 921 highlighted?

8 A. It is highlighted because that is one of the links that I  
9 followed and downloaded as PDF.

10 Q. Is that what highlighted generally indicates on this  
11 document a time when you visited a website and downloaded it to  
12 that disk?

13 A. Yes, it is.

14 MR. BOVE: Mr. DeLuca, let's take a look at the  
15 document associated with line 21.

16 Q. What's the title of this document?

17 A. The fighting conducted by Hezbollah and Maroon Al-Ras.

18 MR. BOVE: Mr. DeLuca, if could you zoom-in on  
19 paragraph 31.

20 Q. What does the last sentence of this paragraph say?

21 A. 24 Hezbollah operatives were killed during the battles.

22 MR. BOVE: Mr. DeLuca, could you bring us to page five  
23 of this document please.

24 (Pause)

25 MR. BOVE: Zoom-in on the photo and the caption.

J5DAAKOU4

Shields - Direct

1 Q. Ms. Shields, what is the caption on this photo from the  
2 defendant's internet history?

3 A. Hezbollah operatives marching during the Assura festivities  
4 in here. Upper left Hassan Nasrallah speaks during the  
5 festivities from -- a Hezbollah publication February 25, 2005.

6 MR. BOVE: Could we please take a look at page six,  
7 Mr. DeLuca, and zoom-in on paragraph 33.

8 (Pause)

9 Q. Ms. Shields, could you please read the first sentence of  
10 this paragraph?

11 A. During the war Hezbollah collected high quality  
12 intelligence on the IDF's activity.

13 MR. BOVE: Mr. DeLuca, could you please bring up page  
14 32 of this document and zoom-in on paragraph 41.

15 Q. What does the first sentence of this paragraph say?

16 A. The Bekaa Valley Hezbollah's logistics area in which are  
17 located recruitment offices, the offices of senior commanders,  
18 security offices, logistics and supply store houses and  
19 training and instruction camps.

20 MR. BOVE: Zoom-in please on paragraph 42, Mr. DeLuca.

21 (Pause)

22 Q. Could you please read the first sentence of this paragraph?

23 A. As the urban center of the Bekaa Valley, the city of  
24 Baalbek is also Hezbollah's primary stronghold.

25 MR. BOVE: Now, I'd like to go back to the chart

J5DAAKOU4

Shields - Direct

1 Government Exhibit 902 and, Mr. DeLuca, let's take a look at  
2 page three and on page three, lines 45 and 46.

3 Q. What is reflected in these lines of the document?

4 A. These lines reflect that on May 18, 2012, the user of the  
5 account searched for Atlantic tactical and then shortly after  
6 visited www.Atlantictactical.com.

7 Q. Line 46 is highlighted and that is one of the ones you  
8 visit and downloaded the disk?

9 A. Yes, it is.

10 MR. BOVE: Mr. DeLuca, could you please bring up that  
11 website.

12 (Pause)

13 MR. BOVE: Now, let's go back to Government Exhibit  
14 902 the chart beyond page three and please zoom-in on row 47.

15 (Pause)

16 Q. What is indicated here, Ms. Shields?

17 A. This indicates that on July 18, 2012, the user of the  
18 account conducted a search in a foreign language and the  
19 translation of that search is a bond --

20 MR. BOVE: Mr. DeLuca, could you please bring up a  
21 translation of website from line 47. So, before we zoom-in  
22 there are some more redaction boxes on this document.

23 Q. Do you see that, Ms. Shields?

24 A. Yes.

25 Q. Did you apply those?

J5DAAKOU4

Shields - Direct

1 A. Yes. I redacted the hits that were dated after the date of  
2 the section.

3 THE COURT: You redacted what?

4 THE WITNESS: Some of the hits in the searches wee  
5 dated after the date of the search in the internet activity.

6 THE COURT: Could I see counsel for a moment off the  
7 record.

8 (Discussion held of the record)

9 MR. BOVE: Mr. DeLuca, could you please zoom-in on the  
10 first website listed as a search hit and if could you highlight  
11 "Al-Manar.com" please.

12 (Pause)

13 Q. Ms. Shields, could you please read the text provided for  
14 that website?

15 A. As seen from the movie "A Bond Like a Vein", as soon as the  
16 resistance started firing at the military barracks of the  
17 Israeli occupation army. The Hall was aroused with more  
18 supplies and was...

19 MR. BOVE: Let's go back to the chart please,  
20 Mr. DeLuca, Government Exhibit 902 and zoom-in now on rows 56  
21 and 57.

22 Q. What is indicated here, Ms. Shields?

23 A. This indicates that on December 7, 2012, the user conducted  
24 a foreign language search and the translation of that search is  
25 Trader Nassir.

J5DAAKOU4

Shields - Direct

1 Q. Can you explain to the jurors how you got the Arabic text  
2 that's in the second column from the right?

3 A. Yes. When I copied the goggle link that appears in the  
4 parentheses into an internet browser the Arabic text showed up  
5 in the tax term.

6 Q. Then you copied and pasted that text into the chart?

7 A. Correct.

8 MR. BOVE: Mr. DeLuca, could you please move the part  
9 of the exhibits up to the top the screen and on the bottom  
10 dates and bring up the -- from line 56 and zoom-in on the  
11 search in the first lit please.

12 (Pause)

13 MR. BOVE: Please highlight where it says -- are  
14 falling apart and more confessions.

15 Q. Ms. Shields, how does the website on the bottom of the  
16 screen compare to the website listed in row 57 at the top?

17 A. They're both www.Keyom.com.

18 MR. BOVE: Mr. DeLuca, could you now bring us to page  
19 four of Government Exhibit 902 in the main window.

20 (Pause)

21 MR. BOVE: Zoom-in on line 73.

22 (Pause)

23 Q. What's reflected here, Ms. Shields?

24 A. This reflects that on April 9, 2013, the user watched a  
25 YouTube video which is in a foreign language and translation is

J5DAAKOU4

Shields - Direct

1 Siada Zaneb Shrine protection brigade.

2 Q. Were you able to download that video?

3 A. Yes, I was.

4 MR. BOVE: Let's start by playing the first 30  
5 seconds.

6 (video/audiotape playing)

7 MR. BOVE: Now, if you could skip ahead and play from  
8 1:37 to 2:07.

9 (Videotape/audiotape played)

10 MR. BOVE: Now, let's play from 2:30 to three minutes  
11 please.

12 (Video/audiotape playing)

13 Q. Was there a translation of that video prepared?

14 A. Yes, there was.

15 MR. BOVE: Mr. DeLuca, could you please bring that up  
16 and I'd like to start by taking a look at page three. If you  
17 could zoom-in on lines 22 through 25.

18 (Pause)

19 Q. What is the translation of this part of the video?

20 A. I saw the minute -- with the projectiles hitting them. We  
21 should cutoff the hands of those who did it. We sacrifice  
22 those next for your shrine. The blood has reached neck high by  
23 God's power.

24 MR. BOVE: Let's take a look at page five of the  
25 translation please if could you zoom-in on the bottom two

J5DAAKOU4

Shields - Direct

1 points of 50 and 51. What does that part of the translation  
2 say?

3 A. He who doesn't pull his weapon has no loyalty. The call  
4 for death has some allowed.

5 MR. BOVE: Now, if we could take a look at page six  
6 please and zoom-in on page 6.

7 Q. What is this part of the translation?

8 A. So, your opinion is nothing but a refuted one. Your days  
9 are nothing but a count down and all you gather is to be  
10 scattered.

11 MR. BOVE: Let's go back to the chart, page four  
12 Government Exhibit four please and zoom-in on page 74 and 75.

13 Q. What is indicated on the screen here?

14 A. This I believe indicates that on April 25, 2013, the user  
15 search conducted foreign language search which translates to  
16 tell nebe men.

17 Q. Were you able to download the video reflected on page five?

18 A. Yes, I was.

19 MR. BOVE: Mr. DeLuca, could you please case the first  
20 20 seconds of that video.

21 (Video playing)

22 MR. BOVE: Now we are going to take a look at  
23 translation of the video.

24 Mr. DeLuca, could you bring that up please.

25 (Pause)

J5DAAKOU4

Shields - Direct

1                   MR. BOVE: Let's take a look at page three and zoom-in  
2 on lines 13 through 16.

3 Q. What is this part of the translation?

4 A. Every stubborn tyrant should know that our stubbornness is  
5 firmer, that our jihad for Allah will continue until the day of  
6 judgment when we are the Victors.

7                   MR. BOVE: Now, let's go back to the chart please,  
8 Mr. DeLuca, Government Exhibit 902. Let's take a look the page  
9 six and on that row page 13.

10 Q. What's indicated here, Ms. Shields?

11 A. This indicates that on July 30, 2014, the user conducted a  
12 foreign language search and the translation of that is Nahal  
13 Aajj.

14                   MR. BOVE: Let's take a look at the translation of  
15 that search page.

16                   Mr. DeLuca, could you bring that up and zoom-in on the  
17 search term and first result.

18 Q. What is the title of the YouTube video that's the first  
19 search result?

20 A. YouTube aerial images of Israeli killing of Nahal Aajj  
21 operations perpetrators.

22 Q. Could you please read the text preview that's provided for  
23 that video?

24 A. After the arms actions published images of the operation  
25 that took place in the Nahal Aajj in light of the killing of

J5DAAKOU4

Shields - Direct

1 two Israelis the Israeli army publishes the video...

2 MR. BOVE: Now, let's go back to the chart 902 please  
3 and this time page seven and if you could zoom-in on row 115.

4 Q. What is this?

5 A. This reflects that on March 26, 2015, the user conducted a  
6 foreign language search and the translation of that search  
7 is --

8 MR. BOVE: Zoom-in on the search term in the image  
9 results.

10 Now let's go back to 902 and this time on page seven  
11 you could zoom-in on page 126.

12 (Pause)

13 Q. What is indicated here, Ms. Shields?

14 A. On November 16, 2015, the user conducted a search in a  
15 foreign language and that translates to Hezbollah prisoner in  
16 Syria.

17 MR. BOVE: If you go to age eight and zoom-in on page  
18 19.

19 Q. What's indicated here?

20 A. On November 26, 2015, the user conducted a search in a  
21 foreign language which translates to Hezbollah.

22 MR. BOVE: Now, let's took at the translation of that  
23 page. If you could zoom-in on the first page and the image  
24 itself please.

25 (Pause)

J5DAAKOU4

Shields - Cross

1 MR. BOVE: Now, let's go back to the charts 902 and  
2 I'd like.

3 Q. What is this one?

4 A. This reflects that the user watched a YouTube video on  
5 November 16, 2015. It was in a foreign language and that  
6 translates to Hezbollah three prisoners appear in this video.

7 MR. BOVE: If you could zoom-in to the title of the  
8 video and then the text review.

9 Q. Ms. Shields, could you please read the first sentence of  
10 the description of this video?

11 A. Two days after their capture, Orient TV affiliated with  
12 Omni Storefront broadcasted an interview with Hezbollah  
13 prisoners held by the front, namely, Hassan -- and Mohammad --  
14 while the third prisoner did not appear in the video.

15 MR. BOVE: Let's go back to the chart please, page  
16 eight, Government Exhibit 902.

17 Q. What's indicated here, Ms. Shields?

18 A. This indicates that on November 17, 2015 -- conduct two  
19 more searches in a foreign language that translates to  
20 Hezbollah prisoners.

21 MR. BOVE: Nothing further, judge.

22 THE COURT: Cross?

23 MR. SCHACHT: Thank you, your Honor.

24 CROSS-EXAMINATION

25 BY MR. SCHACHT:

J5DAAKOU4

Shields - Cross

1 Q. The last video that we were just talking about that says  
2 someone named Prolani is held prisoner by the Al-Nusra front;  
3 do you recall that?

4 A. Yes.

5 Q. The Al-Nusra front is al-Qaeda, correct?

6 A. I'm not aware of that affiliation.

7 THE COURT: You just did what you were told? You  
8 don't have any independent information?

9 THE WITNESS: I downloaded the video and I sent it for  
10 translation.

11 Q. Who picked the videos that you chose to send to  
12 translation?

13 A. Someone else.

14 Q. Was it anybody who speaks Arabic, if you know?

15 A. No.

16 (Continued on next page)

17

18

19

20

21

22

23

24

25

J5DKKOU5

Shields - Cross

1 BY MR. SCHACHT:

2 Q. No, you don't know, or, no, it's not someone who speaks  
3 Arabic?

4 A. I do not know if they speak Arabic or not.

5 Q. Well, can you say who told you?

6 A. The attorneys told me.

7 Q. When you say "the attorneys," you mean the people seated  
8 here in court today?

9 A. Yes.

10 Q. So you're not aware, then --

11 THE COURT: She's here only as a person who created  
12 some summaries of documents already in evidence. She's not  
13 originating anything. The only function here --

14 MR. SCHACHT: Judge --

15 THE COURT: -- is to summarize what is already in  
16 evidence.

17 MR. SCHACHT: Then I'd like to approach for a moment.

18 THE COURT: You may.

19 (Continued on next page)

J5DKKOU5

Shields - Cross

1 (At the sidebar)

2 MR. SCHACHT: I didn't object before, and maybe it's  
3 my fault that I didn't object, but she did a lot of identifying  
4 of people in videos, saying this person is Hassan Nasrallah,  
5 this person is Imad Mughnayeh. I allowed her to act as,  
6 basically, an ID witness of people --

7 THE COURT: These people were already identified.

8 MR. BOVE: By multiple witnesses.

9 MR. SCHACHT: Right. But that doesn't mean -- photos  
10 of those people are in evidence, but she's acting as much more  
11 than someone just downloading links and copying them.

12 THE COURT: Is that right?

13 MR. BOVE: No, absolutely not, Judge. There were two  
14 questions along these lines, one related to Hassan Nasrallah,  
15 the Secretary General of Hezbollah, who almost every witness at  
16 this trial has identified, and there's a photograph --

17 THE COURT: So what she's done is linked other  
18 evidence to this?

19 MR. BOVE: She created -- you summarized it accurately  
20 on the bench, Judge.

21 THE COURT: She summarized --

22 MR. BOVE: Yes.

23 THE COURT: -- but she added something from another  
24 piece of evidence into the summary, right?

25 MR. BOVE: I wouldn't even go that far, Judge. It's

J5DKKOU5

Shields - Cross

1 just there were two follow-up questions --

2 THE COURT: Say again?

3 MR. BOVE: I wouldn't even go that far, Judge.

4 Everything that's in the summary chart is directly documents in  
5 evidence, and then I asked two follow-up questions about two  
6 pictures that were on the screen that she was able to match up  
7 with other pictures that are in evidence.

8 MR. SCHACHT: Judge --

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

J5DKKOU5

Shields - Cross

1 (In open court)

2 THE COURT: Members of the jury, may I excuse you.

3 We'll take a midafternoon break, or create one at this point in  
4 time. I have to have a discussion with the lawyers. It's  
5 easier if you're in the jury room. Close up your books, leave  
6 them on your chairs.

7 (Continued on next page)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

J5DKKOU5

Shields - Cross

1 (Jury not present)

2 Mr. Bove, Mr. Schacht, I'd like you to have  
3 Ms. Shields bring up and identify that which Mr. Schacht is  
4 complaining about, so I can make rulings.

5 MR. SCHACHT: Well, Judge, what I'm complaining  
6 about --

7 THE COURT: I understand what you're complaining  
8 about. I want to see it.

9 MR. SCHACHT: They're introducing Arabic language  
10 things that she doesn't know what they say.

11 THE COURT: I want to see it on there, and we'll  
12 develop this information. And then if you can object, you can  
13 object. I don't have enough of a record now to rule.

14 Ms. Shields, Mr. Schacht is raising certain objections  
15 which requires us, without the jury being here, to identify  
16 certain things. So we're going to ask you to assist in doing  
17 that.

18 THE WITNESS: Yes.

19 MR. BOVE: Your Honor, the video that Mr. Schacht  
20 objected to at sidebar is a downloaded video from record 115108  
21 on Government Exhibit 302.

22 THE COURT: He's not objecting to that. He's  
23 objecting to her identification of somebody in that video.

24 MR. BOVE: So I'm just making clear for the record the  
25 video that we're talking about. And we're going to bring it

J5DKKOU5

Shields - Cross

1 up, so that your Honor and Ms. Shields can see it again.

2 THE COURT: Understand what the objection is and what  
3 it's not. Mr. Schacht is not objecting to the video. He's  
4 objecting to an identification of a person in the video.

5 MR. SCHACHT: I am also objecting to the videos. I'm  
6 really objecting to almost all of those videos. I think I can  
7 say --

8 THE COURT: Well, they're all part of the record,  
9 Mr. Schacht.

10 MR. SCHACHT: That's right, your Honor. While I'm not  
11 objecting to the videos, I'm objecting to being cut off in my  
12 cross-examination.

13 THE COURT: I didn't cut you off.

14 MR. SCHACHT: Well, Judge, you told me I can't --

15 THE COURT: I want to make a ruling. You made an  
16 objection, and I want to make a ruling. You told me that you  
17 didn't object earlier, and I have to make a ruling. I didn't  
18 cut you off. I'm letting you make a record now, and I need  
19 that record to make the rulings in response to your objection.

20 MR. SCHACHT: I'm sorry, I felt that you cut me off  
21 when you, in front of the jury, said that she's simply a  
22 compiler of information when I was trying to elicit from her  
23 answers to my questions about the substance of the videos.

24 THE COURT: I'll let you do that.

25 MR. SCHACHT: Okay. Then I --

J5DKKOU5

Shields - Cross

1           THE COURT: I'm not cutting you off, but before we go  
2 forward, I just need to have a record of exactly what it is  
3 you're objecting to.

4           MR. BOVE: I think the objection --

5           THE COURT: Let me hear from Mr. Schacht.

6           What is it you're objecting to?

7           MR. SCHACHT: I'm objecting, if you will not --  
8 although it seems like you will -- allow me to ask her  
9 questions about the substance --

10          THE COURT: Don't anticipate what I'm going to do.  
11 Just tell me what you're objecting to.

12          MR. SCHACHT: I objected to you preventing me from  
13 asking her about what's in the video that she has seen, and  
14 downloaded, and made a chart about.

15          THE COURT: I don't object to that. I'm not going  
16 to -- and I don't think Mr. Bove is concerned about that  
17 because he's already played that. But you objected to  
18 something in that video.

19          MR. SCHACHT: I objected, your Honor, to you  
20 permitting her to act as an identifying witness of people in  
21 the videos.

22          THE COURT: Exactly. And that's what I want to  
23 respond to.

24          MR. SCHACHT: Fair enough.

25          THE COURT: I may rule in your favor.

J5DKKOU5

Shields - Cross

1           What I'd like to do is to call up that video and stop  
2 it in the frame where she does that, and then we'll take it  
3 from there.

4           MR. BOVE: We're bringing up -- we don't need the  
5 audio.

6           MR. SCHACHT: Just so the record is clear, what  
7 exhibit are we looking at?

8           MR. BOVE: This is record 11508 from Government  
9 Exhibit 302-A. And the screen frame that Ms. Shields did the  
10 identification from is at 24 seconds in the video.

11          THE COURT: Stop the video.

12          Now, this guy who's making points, did she identify  
13 him?

14          MR. BOVE: Yes, your Honor.

15          THE COURT: Is that your objection?

16          MR. SCHACHT: That's one of them. She identified  
17 several people, and I don't think she knows this man  
18 personally. I highly doubt.

19          THE COURT: But this is one of them, right?

20          MR. SCHACHT: Yes.

21          THE COURT: So, Ms. Shields?

22          THE WITNESS: Yes.

23          THE COURT: How did you come to identify this person?  
24 How did you identify him?

25          THE WITNESS: I identified him as Hassan Nasrallah.

J5DKKOU5

Shields - Cross

1           THE COURT: Hassan Nasrallah?

2           THE WITNESS: Yes.

3           THE COURT: How did you make that identification, on  
4 what basis?

5           THE WITNESS: His photo is a government exhibit in  
6 evidence. I also have been working on this case for about a  
7 year now and am familiar with the faces --

8           THE COURT: You're not here as an expert witness.

9           THE WITNESS: Right.

10          THE COURT: So what you've done is linked two  
11 exhibits, right?

12          THE WITNESS: Correct.

13          THE COURT: I'm going to overrule the objection on the  
14 basis that what Ms. Shields has done is to have a look at the  
15 picture of Hassan Nasrallah --

16          Which is Exhibit what?

17          THE WITNESS: It is Exhibit 103.

18          THE COURT: -- and applied it to the picture.

19          THE WITNESS: Correct.

20          THE COURT: So can we bring up --

21          What is it, 1-0?

22          THE WITNESS: 103.

23          THE COURT: Go ahead.

24          And put it next to one another.

25          Now, I can allow Mr. Bove to -- either on redirect, or

J5DKKOU5

Shields - Cross

1 you can do it, Mr. Schacht, if you want to, to make it clear  
2 the basis that Ms. Shields is testifying. What she's doing is  
3 linking two exhibits. It's fair to do that as a summary.

4 MR. SCHACHT: Well, Judge, I would prefer just to be  
5 able to ask my questions of her about other things in the same  
6 exhibit.

7 THE COURT: What's the basis of her doing it?

8 MR. SCHACHT: Well, she's looked at things --

9 THE COURT: You want to ask what's the basis?

10 MR. SCHACHT: She's identified the Lebanese and the  
11 Hezbollah flag, for example.

12 THE COURT: All right. So we'll do --

13 MR. SCHACHT: There's other things in the video which  
14 I would like to ask her if she can identify what they are.

15 THE COURT: Okay. You may do that.

16 MR. SCHACHT: Thank you.

17 THE COURT: Anything else?

18 MR. SCHACHT: No, nothing from me.

19 THE COURT: Will someone close to the door knock three  
20 times.

21 Thank you. Excellent.

22 It looks like we're not going to finish today.

23 MR. BOVE: It will be close.

24 THE COURT: It's okay. You don't need to knock  
25 anymore. She's heard.

J5DKKOU5

Shields - Cross

1 (Jury present)

2 THE COURT: Thank you, members of the jury. Be  
3 seated, please.

4 You may continue your cross-examination, Mr. Schacht.

5 MR. SCHACHT: Thank you, your Honor.

6 BY MR. SCHACHT:

7 Q. Before the break, Ms. Shields, do you recall I was asking  
8 you about one of the searches which mentioned something called  
9 Al-Nusra? Do you recall that?

10 A. Yes.

11 Q. I think you had said that you were not aware if Al-Nusra  
12 and al Qaeda are the same thing?

13 A. Correct.

14 Q. Do you recall in another exhibit -- it's 302 -- one of the  
15 videos? Do you recall that video?

16 A. Yes.

17 Q. In that video, number 302, there is a Lebanese flag and a  
18 Hezbollah flag at one point in the video; is that right?

19 A. Yes.

20 Q. In the beginning of the video, you can see someone giving a  
21 speech to what looks like a large group of people, right?

22 A. Correct.

23 Q. And you can see that there appears to be, in the front  
24 couple of rows, the Lebanese military that is listening to the  
25 speech. Do you recall that?

J5DKKOU5

Shields - Cross

1 A. I do not remember that.

2 MR. SCHACHT: Would you please put that video, at the  
3 very beginning, up on the screen again.

4 THE COURT: Identify which video we're talking about.

5 MR. SCHACHT: 302.

6 THE COURT: There are several in there.

7 MR. BOVE: It's record 115108.

8 MR. SCHACHT: Thank you very much.

9 BY MR. SCHACHT:

10 Q. Right there, you see there appear to be people wearing  
11 military uniforms there in the front row?

12 A. There appear to be people wearing uniforms in the front  
13 row.

14 THE COURT: Does it seem, also, to be a lot of other  
15 people?

16 MR. SCHACHT: Yes.

17 BY MR. SCHACHT:

18 Q. And this is the same video that, a little bit later on, has  
19 the Lebanese government flag next to the Hezbollah flag, right?

20 A. Correct.

21 Q. And Hezbollah, in Lebanon, is a legal entity that's part of  
22 the government, right?

23 A. I'm not an expert on Hezbollah. I believe Dr. Levitt  
24 testified about that relationship.

25 Q. And you were present during his testimony, right?

J5DKKOU5

Shields - Cross

1 A. Correct.

2 Q. And you heard him say that Hezbollah has membership in the  
3 Lebanese parliament?

4 A. I don't --

5 THE COURT: I don't think this witness is here to  
6 recap the testimony.

7 BY MR. SCHACHT:

8 Q. Do you recall one of the Google searches said that a person  
9 named Khattar Abdullah had been killed? Do you recall that  
10 search that you looked up and put on one of your sheets?

11 A. Could you refresh my memory on the line number?

12 Q. I'm not sure I could.

13 THE COURT: Well, work with Mr. Bove.

14 Q. But if you give me one moment. It's line 115 of Government  
15 Exhibit 902, and it says, "Martyr Commander Khattar Abdullah."

16 THE COURT: Put it up, please.

17 Q. You created this part of the document, right?

18 A. Correct.

19 Q. Based on the translator's translation that, in Arabic, that  
20 says "Martyr Commander Khattar Abdullah?"

21 A. Correct.

22 Q. This comes from a search on the website called Google.com?

23 A. Yes.

24 Q. None of this, by the way, is secret information, it's all  
25 open source things that you found on the Internet?

J5DKKOU5

Shields - Cross

1 A. Correct.

2 Q. Do you know who Khattar Abdullah is?

3 A. I do not.

4 Q. Do you have any idea if he is a Hezbollah person who was  
5 killed by ISIS?

6 MR. BOVE: Objection.

7 THE WITNESS: I do not.

8 THE COURT: Overruled.

9 What's the answer?

10 THE WITNESS: I do not know.

11 THE COURT: Again, members of the jury, just because  
12 some item of fact or information is in a question, it is not  
13 part of the record. It's only the witness' answer in response  
14 to questions that is the record.

15 BY MR. SCHACHT:

16 Q. So the record is clear, the jury has no idea who this  
17 person is based on your testimony, right, Khattar Abdullah?

18 A. I do not know who that person is.

19 Q. Right.

20 MR. SCHACHT: Could you please put up Government  
21 Exhibit 401-C.

22 Q. This document, do you recall making this?

23 A. Yes.

24 Q. And what was this? Or what is this?

25 A. This is a document of Google. It's a return from a Google

J5DKKOU5

Shields - Cross

1 search. It's a Google search warrant return.

2 THE COURT: It's what?

3 THE WITNESS: A Google search warrant return.

4 BY MR. SCHACHT:

5 Q. So this is the result of a search warrant that was executed  
6 at Google, or is this something you created?

7 A. It is a selection of searches from the Google search  
8 warrant return.

9 Q. So, at the ali.m.kourani@gmail account, there's actually  
10 many more searches than this; is that right?

11 A. Correct.

12 Q. And these were selected by someone for use in this court  
13 case, right?

14 A. Correct.

15 Q. Now, one of the websites that you talked about before is  
16 called Cryptome, do you recall that, C-r-y-p-t-o-m-e?

17 A. Yes.

18 Q. And where did you find that website, Cryptome?

19 A. That website was in the Safari history of Government  
20 Exhibit 302.

21 Q. And you then went to the actual website, Cryptome,  
22 yourself, right?

23 A. Correct.

24 Q. When you went to Cryptome, you learned that it is a website  
25 maintained by someone at the address 251 West 89th Street here

J5DKKOU5

Shields - Cross

1       in Manhattan, do you recall that?

2       A. I do not remember seeing that information when I visited  
3       the website.

4                   THE COURT: Could you keep your voice up, please.

5                   THE WITNESS: Sorry.

6 BY MR. SCHACHT:

7 Q. Did you scroll through or search through that website?

8 A. No. When I copied that link into the browser, all that  
9       came up was the PDF that is Government Exhibit 4 on 302-A.

10 Q. Is it fair to say that you only looked on the links that  
11       you cut and paste from the Google search warrant return, you  
12       didn't generally look at the websites that were referenced in  
13       the Google search; is that right?

14 A. Correct. I only looked at the pages that I copied and  
15       pasted from this document and also Government Exhibit 302.

16 Q. So, then, you're not able to say anything about that or any  
17       of the other websites, other than what you saw at those  
18       cut-and-pasted links, right?

19 A. Correct.

20 Q. Now, I know this sounds like an obvious question, but  
21       Google is not a secret website, right?

22 A. Correct.

23 Q. And neither is eBay, right?

24 A. Correct.

25 Q. And neither is YouTube, right?

J5DKKOU5

Shields - Cross

1 A. Correct.

2 Q. And as far as you're aware, looking at anything on any of  
3 those three websites is not, in and of itself, illegal, right?

4 A. As far as I know.

5 Q. By the way, the search that you were talking about in  
6 401-C, or the series of searches, all of these searches are  
7 from a person using, or having logged in, or accessed the Web  
8 by ali.m.kourani@gmail, right?

9 A. Correct.

10 Q. As far as you know, that may have been Al Kourani here, the  
11 man on trial in court, right?

12 A. All I know is that it was the user ali.m.kourani@gmail.com.

13 Q. But you don't know who the actual person was, right?

14 A. Correct.

15 Q. Approximately how many documents, total, would you say you  
16 cut and paste the links from the ali.m.kourani@gmail account  
17 onto the several charts that are into evidence now?

18 A. Well, there are approximately 132 links in Government  
19 Exhibit 902 and then a couple more from Government Exhibit 302.

20 Q. So the total is, let's say, can we agree, it's under 200  
21 total?

22 A. Correct.

23 MR. SCHACHT: Thank you. I have no other questions.

24 THE COURT: Redirect?

25 MR. BOVE: No, your Honor. Thank you.

J5DKKOU5

Smith - Direct

1           THE COURT: Thank you, Ms. Shields.

2           (Witness excused)

3           MR. BOVE: The government calls David Smith, from the  
4 ATF, Judge.

5 DAVID SMITH,

6           called as a witness by the Government,

7           having been duly sworn, testified as follows:

8           THE COURT: Pay attention to the oath, please.

9           THE WITNESS: My name is David Alan Smith. My last  
10 name is S-m-i-t-h. A-l-a-n.

11           MR. BOVE: May I inquire, Judge?

12           THE COURT: You may. As soon as we stop squeaking.

13           MR. BOVE: Thank you.

14 DIRECT EXAMINATION

15 BY MR. BOVE:

16 Q. Mr. Smith, where do you work?

17 A. I work for the Bureau of Alcohol Tobacco and Firearms in  
18 Martinsburg, West Virginia.

19 Q. Is that sometimes referred to as the ATF?

20 A. Yes.

21 Q. What is your title right now at the ATF?

22 A. I am a firearms enforcement officer.

23 Q. When did you start at the ATF?

24 A. I started in -- three years ago.

25 Q. What do you do there?

J5DKKOU5

Smith - Direct

1 A. I classify and perform technical reports on firearms and  
2 devices for law enforcement, both federal, state and local, for  
3 firearms manufacturers, for the public, and for Congress.

4 Q. Have you received any training at ATF relating to the  
5 identification of firearms?

6 A. Yes, I have.

7 Q. Could you please describe some of that training?

8 A. We read firearms periodicals. I have received training in  
9 federal law. I have gone to firearms manufacturers, trade  
10 shows, armorers courses, and other things.

11 Q. About how many hours, in total, approximately, have you  
12 spent in trainings like that?

13 A. Probably somewhere in the neighborhood of a thousand hours.

14 Q. Are you responsible for providing training to others on the  
15 identification of firearms?

16 A. Yes, I am.

17 Q. Could you please describe some of that work?

18 A. I help provide training for firearms nexus, which is  
19 determining where the firearms are made. I provide training to  
20 the firearms examiners academy. I also provide training to  
21 manufacturers as far as how to perform their markings and how  
22 to do some of their manufacturer processes within compliance.

23 Q. What did you do after you joined the ATF?

24 A. I worked for the Department of Homeland Security.

25 Q. What did you do at the Department of Homeland Security?

J5DKKOU5

Smith - Direct

1 A. I was a gunsmith or ordnance equipment expert.

2 Q. Prior to that work, did you serve in the military?

3 A. Yes, I did.

4 Q. What part of the military?

5 A. United States Marine Corps.

6 Q. For how long did you serve in the Marine Corps?

7 A. I served for eight and a half years.

8 Q. Could you please describe some of the things that you did  
9 during your service that relate to the identification of  
10 firearms?

11 A. While I was in the United States Marine Corps, they trained  
12 me in what they considered small arms weapons, which is  
13 everything from 30-millimeter cannons down to pistols, infantry  
14 rifles. I was also trained in small man-portable rocket  
15 systems. I performed maintenance modifications to those  
16 systems for my first four years. I then transferred and became  
17 a precision weapons technician, where they sent me through a  
18 naval machinist course and welding. There, I performed  
19 maintenance, prototype and development for different weapon  
20 systems, including match weapons and especially sniper systems.

21 Q. As a marine, did you teach any courses related to foreign  
22 weapons?

23 A. Yes, I did. I worked with Explosive Ordnance Disposal on  
24 foreign weapons that they were finding in caches in Iraq and  
25 Afghanistan and taught them the ins and outs of those weapons,

J5DKKOU5

Smith - Direct

1 so they would know when they had been modified and booby  
2 trapped.

3 Q. What were some of the types of foreign weapons that were  
4 the focus of that course that you taught?

5 A. AK-47s, RPDs, RPKs, PKMs, and RPG-7s.

6 Q. Have you testified as an expert before in court?

7 A. Yes, I have.

8 MR. BOVE: Your Honor, I offer Mr. Smith as an expert  
9 in firearms, machine guns, and destructive devices.

10 MR. SCHACHT: No objection.

11 THE COURT: Mr. Smith is an expert in those  
12 categories.

13 MR. BOVE: Thank you, Judge.

14 BY MR. BOVE:

15 Q. I'd like to talk today, or start by talking, about some of  
16 the photos of weapons identified by the defendant.

17 MR. BOVE: So, Ms. Shields, if you could bring up  
18 Government Exhibit 807, and we'll start with page 5.

19 Q. Mr. Smith, what's shown on the screen?

20 A. It's a Glock-type pistol.

21 Q. What are some of the basic parts of a Glock pistol?

22 A. You have a barrel, a slide, a frame or receiver.

23 Q. Are you familiar with the term "magazine"?

24 A. Yes.

25 Q. What's a magazine?

J5DKKOU5

Smith - Direct

1 A. A magazine is the device that's actually used to hold the  
2 rounds and feed those rounds into the weapon.

3 Q. Are you familiar with the different parts or pieces of a  
4 round of ammunition?

5 A. Yes, I am.

6 MR. BOVE: Ms. Shields, could you bring up Government  
7 Exhibit 908 just for the witness and the Judge, please.

8 BY MR. BOVE:

9 Q. Do you recognize that, Mr. Smith?

10 A. Yes, I do.

11 Q. What is it?

12 A. It is a round of ammunition.

13 Q. Does this fairly and accurately depict the different parts  
14 of a round of ammunition?

15 A. Yes, it does.

16 Q. Will it assist you in describing those parts to the jury  
17 today?

18 A. Yes, it will.

19 MR. BOVE: Your Honor, I offer 908.

20 MR. SCHACHT: No objection.

21 THE COURT: Received.

22 (Government's Exhibit 908 received in evidence)

23 MR. BOVE: Ms. Shields, could you please publish that  
24 for the jurors.

25 THE COURT: I'd like Mr. Smith, also, to identify the

J5DKKOU5

Smith - Direct

1 parts of the pistol.

2 MR. BOVE: Yes, your Honor. There are some  
3 demonstrative exhibits, and I'm going to ask in a moment for  
4 Mr. Smith to come down and explain those parts.

5 THE COURT: Okay.

6 BY MR. BOVE:

7 Q. Before we do that, let's start with the basics about a  
8 piece of ammunition. Could you please use the exhibit on the  
9 screen to describe the parts of the round that we see?

10 A. Yes, sir.

11 The part numbered 5, that's actually the primer.  
12 That's the ignition source for a piece of ammunition. Part 4  
13 is typically a brass, steel, or nickel casing. The part  
14 labeled number 3 is the powder or propellant. And then part 1  
15 is actually the projectile or bullet.

16 MR. BOVE: Ms. Shields, if we could go back to page  
17 5 --

18 THE COURT: Before you finish, Mr. Smith, how does  
19 this work?

20 THE WITNESS: Sir, the way this works is you have a  
21 striker or a hammer that impacts the primer. You'll see  
22 there's a small hole in the casing in front of the primer.  
23 Once that primer is ignited, it puts a jet of flame and hot gas  
24 into the powder propellant that ignites that powder or  
25 propellant. Once that ignites, that pushes the bullet forward

J5DKKOU5

Smith - Direct

1 out of the casing, and that's how the piece of ammunition  
2 works, sir.

3 THE COURT: Where is the ignition from?

4 THE WITNESS: The initial ignition is the number 5.  
5 That's the primer.

6 THE COURT: What causes the ignition?

7 THE WITNESS: Impact. Inside the primer is a --  
8 typically it's a glass and lead fulminate compound, and the  
9 impact of that glass and lead fulminate compound between the  
10 striker or hammer and the anvil of the case there actually  
11 causes the ignition.

12 THE COURT: You used the term "round." What is a  
13 round?

14 THE WITNESS: A round is one piece of ammunition.

15 THE COURT: Go ahead.

16 BY MR. BOVE:

17 Q. Let's go back to page 5 of Government Exhibit 807.

18 This is the Glock that you recall talking about a  
19 moment ago. Are you familiar with the term "semiautomatic" in  
20 reference to a firearm?

21 A. Yes, sir.

22 Q. What is that?

23 A. It means that the weapon fires one round for each  
24 individual pull of the trigger and automatically loads the next  
25 round for firing.

J5DKKOU5

Smith - Direct

1 Q. What does automatic mean?

2 A. Automatic means that it fires a round when you pull the  
3 trigger and continues to fire until you release the trigger or  
4 run out of ammunition.

5 Q. Now --

6 THE COURT: So all you have to do is to press the  
7 trigger once?

8 THE WITNESS: Yes, one single pull.

9 THE COURT: And it will take all the bullets in the  
10 magazine and dispel them, propel them?

11 THE WITNESS: As long as you don't release the  
12 trigger, yes, sir.

13 THE COURT: Thank you.

14 BY MR. BOVE:

15 Q. Have you brought an example of a Glock to help explain to  
16 the jury how one of these pistols works?

17 A. Yes, sir, I have.

18 Q. Has that firearm been rendered inoperable for purposes of  
19 bringing it into the courthouse and this courtroom?

20 A. Yes, it has.

21 MR. BOVE: Your Honor, we've marked the example of a  
22 Glock as Government Exhibit 903 and offer it as an aid to the  
23 jury.

24 MR. SCHACHT: No objection.

25 THE COURT: Received.

J5DKKOU5

Smith - Direct

1 (Government's Exhibit 903 received in evidence)

2 BY MR. BOVE:

3 Q. Mr. Smith, there's a cart in front of the front table here,  
4 and Government Exhibit 903 is in there on the bottom.

5 MR. BOVE: With the Court's permission, I'll ask the  
6 witness to come down from the witness stand, retrieve  
7 Government Exhibit 903, and describe how it works to the jury  
8 from that position.

9 THE COURT: Yes, go down, Mr. Smith.

10 THE WITNESS: Thank you, sir.

11 THE COURT: You can use that lectern to help you.

12 THE WITNESS: Ladies and gentlemen, this is a Glock 17  
13 pistol.

14 BY MR. BOVE:

15 Q. How does a Glock 17 pistol work?

16 A. A Glock 17 pistol is a locked breech, short recoil-operated  
17 pistol. The barrel has a cutout --

18 THE COURT: What does that mean? Tell the jury what  
19 that means.

20 THE WITNESS: Yes, sir.

21 The barrel has a cutout here that matches this cutout  
22 in the slide or breech. When the slide is all the way forward,  
23 that is up and locked. When you pull the trigger and fire a  
24 round, what happens is you have recoil. That's physics. You  
25 throw a certain amount of mass in one direction, you have an

J5DKKOU5

Smith - Direct

1           explosive, you have the same force pushing in the opposite  
2           direction.

3           So the slide and the barrel actually recoil together  
4           about a quarter of an inch. Then what happens is there's a cam  
5           pin in here, and the barrel drops just slightly -- as you can  
6           see right here, it's just below the slide -- and the slide will  
7           continue back, extracting and ejecting that round, and then  
8           stripping the next round off the magazine and loading it into  
9           the chamber.

10 BY MR. BOVE:

11 Q. What is the firing range for a Glock?

12 A. Typically, 25 yards to 25 meters.

13 Q. What does that range mean? What does it indicate?

14           THE COURT: You're standing here. Look at the clock.  
15           What's the distance?

16           THE WITNESS: The distance should be 25 meters to  
17 25 yards.

18           THE COURT: Between you and the clock, what's the  
19 distance, just to estimate the distance?

20           THE WITNESS: About twice that distance, sir.

21           THE COURT: Okay.

22 BY MR. BOVE:

23 Q. So when we're talking about a firing range, what does that  
24 refer to?

25 A. That means an operator of this firearm should be able to

J5DKKOU5

Smith - Direct

1 hit a single person or a person-sized target at that range.

2 Q. What is the rate of fire for a Glock pistol?

3 A. An operator should be able to fire somewhere between 20 and  
4 30 rounds per minute.

5 Q. Could you please describe some of the common uses and  
6 advantages to this firearm?

7 A. The common uses are police, law enforcement. They're also  
8 used for target shooting, self-defense. Some of the -- I'm  
9 sorry, what was the second part?

10 Q. Advantages.

11 A. The advantages are that it has a removable magazine, so  
12 when you run out of ammunition, you can just insert another  
13 loaded magazine, and being semiautomatic, it automatically  
14 loads that next round every time you pull the trigger.

15 Q. Where are blocks typically manufactured?

16 A. They're typically manufactured in Austria and the United  
17 States.

18 Q. So you can put that one down, Government Exhibit 903.

19 MR. BOVE: Ms. Shields, we're going to take a look at  
20 page 2 of Government Exhibit 807.

21 Q. And, Mr. Smith, you can use the screen that's right there  
22 on the front table. What is shown in this photo?

23 A. This is a Heckler & Koch MP5.

24 Q. Where is an MP5 typically manufactured?

25 A. Typically in Germany.

J5DKKOU5

Smith - Direct

1 Q. Have you brought an example of an MP5 that is safe for  
2 purposes of the courtroom to help show the jury how one of  
3 these works?

4 A. Yes, sir, I have.

5 MR. BOVE: Your Honor, that exemplar is marked as  
6 Government Exhibit 804, and I offer it as an aid to the jury to  
7 assist the witness in explaining how an MP5 operates.

8 THE COURT: Received.

9 (Government's Exhibit 804 received in evidence)

10 BY MR. BOVE:

11 Q. So, Mr. Smith, I believe the MP5 is still in the bottom  
12 tray of the cart. If you can retrieve that.

13 THE COURT: Show it to me first.

14 Okay.

15 Q. How does an MP5 work?

16 A. An MP5 works -- it's a firearm with a rifle bore. It has  
17 what's called a roller-delayed blowback system. The bullet has  
18 two rollers to move in and out and a small block that moves  
19 behind it. So when the bullet comes all the way forward, that  
20 block moves forward into the bullet head and pushes those  
21 rollers out.

22 Now, what happens is when you fire a projectile,  
23 again, you have recoil. You're putting a certain mass of  
24 bullet in one direction, you have the same force going in the  
25 other direction. That recoil impulse moves that block

J5DKKOU5

Smith - Direct

1 backwards. Once it moves backwards far enough, that allows the  
2 rollers to collapse, and under the pressure left within the  
3 barrel between the bullet and the casing, it blows that bolt  
4 back, you have a spring, it acts as a recoil and drive spring,  
5 compresses that. As it's doing that, it extracts, ejects, and  
6 then loads the next round.

7 Q. Are you familiar with the term "selector switch"?

8 A. Yes, sir.

9 Q. And do MP5s typically have a selector switch?

10 A. Yes, they do.

11 Q. Is there one on that exhibit?

12 A. This is the selector switch right here.

13 Q. What does the selector switch do?

14 A. It allows you to select between safe, in this case,  
15 semiautomatic, and fully automatic firing.

16 Q. So what does safe mean?

17 A. Safe means the weapon should not fire when you pull the  
18 trigger.

19 Q. And, to be clear, for this MP5, when the selector switch is  
20 on semiautomatic, what does that mean?

21 A. It means it will fire one round every time you pull the  
22 trigger.

23 Q. And automatic?

24 A. Automatic, it will continue to fire rounds until you either  
25 run out of ammunition or you release the trigger.

J5DKKOU5

Smith - Direct

1                 THE COURT: Isn't that the same as the semiautomatic,  
2 if you press the trigger and hold it down --

3                 THE WITNESS: Semiautomatic, if you pull the trigger,  
4 it will fire one round.

5                 THE COURT: But if you hold that trigger down?

6                 THE WITNESS: It will still only fire one round on  
7 semiautomatic.

8                 THE COURT: So I'm confused. The Glock pistol, you  
9 said that if you press the trigger, you don't release it, it  
10 will discharge all the rounds in the magazine.

11                 THE WITNESS: I said if it was an automatic pistol.  
12 The display we gave was a semiautomatic. It would fire one  
13 round. Every time you pulled the trigger, even if you hold it  
14 to the rear, it will fire one round.

15                 THE COURT: What makes it semiautomatic rather than  
16 manual?

17                 THE WITNESS: Manual would be like a breech loading  
18 shotgun or bolt action where you have to manually load the  
19 rounds every time before you fire.

20                 THE COURT: So the semiautomatic refers to automatic  
21 loading, but it has to be triggered each by compression?

22                 THE WITNESS: Yes, sir.

23                 THE COURT: Fully automatic, if you push the trigger  
24 once and hold it, it keeps on firing?

25                 THE WITNESS: Yes, sir, until you run out of

J5DKKOU5

Smith - Direct

1 ammunition or you release the trigger.

2 THE COURT: Yes.

3 BY MR. BOVE:

4 Q. Is there a stock on that weapon?

5 A. Yes, there is.

6 Q. Could you please display it for the jury?

7 A. This is a stock, and it is collapsable.

8 Q. So what's the firing range for an MP5?

9 A. Again, it's a point for an individual target about  
10 100 yards or 100 meters.

11 Q. What about the rate of fire?

12 THE COURT: Four times the distance to the clock?

13 THE WITNESS: Yes, sir.

14 BY MR. BOVE:

15 Q. What about the rate of fire for an MP5?

16 A. An operator should be able to fire somewhere between 30 and  
17 60 rounds per minute, and it has a cyclic rate, which means if  
18 it has an unlimited source of ammunition, it would be able to  
19 fire about 600 rounds per minute.

20 THE COURT: What do you mean by unlimited round of  
21 ammunition?

22 THE WITNESS: MP5s come with a detachable magazine,  
23 limited to about 30 rounds, typically. So in the process of  
24 firing this weapon, you would be able to fire 30 rounds, then  
25 you would have to take the time to exchange the magazine before

J5DKKOU5

Smith - Direct

1 you could fire again. If you had an unlimited magazine, this  
2 weapon will actually fire about 600 rounds per minute.

3 THE COURT: What's that mean, a continuous feed?

4 THE WITNESS: Yes, sir, if you had some way to  
5 continuously feed it.

6 THE COURT: Someone else holding a string of rounds?

7 THE WITNESS: Yes. If you just had an unlimited  
8 magazine capacity, this weapon would fire around 600 rounds per  
9 minute.

10 BY MR. BOVE:

11 Q. Is there a magazine included in the exemplar Government  
12 Exhibit 904?

13 A. Yes. You will see the pistol grip to the rear, the  
14 trigger, and then you will see the magazine.

15 Q. So it's depicted in the photo, but not in the exhibit that  
16 you're holding?

17 A. Correct.

18 Q. What are some of the common authorized uses for an MP5?

19 A. These are commonly used by military and police. They're  
20 also used for some sport shooting.

21 Q. When we're talking about authorized uses, what are some of  
22 the common advantages to that firearm?

23 A. Advantages are primarily length. With the stock collapsed,  
24 or even with it open, you have a short barrel, and, therefore,  
25 it's easy to maneuver. Also, being 9 millimeter, it's the same

J5DKKOU5

Smith - Direct

1 round as is often used in officers' handguns, and it gives you  
2 extended range. A handgun only has about 25 meters' worth of  
3 range. This gives you up to about a hundred.

4 Q. Have law enforcement personnel taken advantage of the  
5 possibility of concealment of a firearm like that?

6 A. Yes. With the collapsed stock, this gets down fairly small  
7 and can be concealed.

8 Q. Thank you. You can put that one down.

9 MR. BOVE: Ms. Shields, if you can bring up page 4 of  
10 the photographs that the defendant identified.

11 Q. Mr. Smith, what's shown here?

12 A. This is an AK-47.

13 MR. BOVE: Ms. Shields, if you could zoom in on the  
14 photo, please.

15 Q. Mr. Smith, can you tell, from this particular photograph,  
16 whether that AK-47 identified by the defendant is fully  
17 automatic?

18 A. Yes, I can identify this as a fully automatic AK-47. If  
19 you looked at the selector switch, right above it, you can see  
20 the middle selector notch, which is the fully automatic notch.

21 Q. Have you brought an example of an AK-47 type firearm that  
22 is safe for purposes of the courtroom?

23 A. Yes, sir, I have.

24 MR. BOVE: Your Honor, we have marked that as 905, and  
25 I offer it as an aid to the jury.

J5DKKOU5

Smith - Direct

1 THE COURT: Received.

2 (Government's Exhibit 905 received in evidence)

3 BY MR. BOVE:

4 Q. Mr. Smith, if you could please retrieve Government Exhibit  
5 905 from the cart.

6 THE COURT: Can I see? Thank you.

7 Q. What is that, Mr. Smith?

8 A. This is an AK-47.

9 Q. Generally speaking, how does an AK-47 work?

10 A. An AK-47 works with a rotating bolt and long-stroke piston.  
11 The way that works is when you fire a round, the bullet travels  
12 down the barrel until it passes the gas key right here. Once  
13 the bullet travels past the gas key, the gas is actually ported  
14 up into the op-rod. That gas then pushes on the op-rod, which  
15 is attached to the bolt. As that bolt and op-rod are pushed  
16 back, the bolt rotates. That unlocks it from the barrel  
17 extension, allowing it to travel backwards, extracting,  
18 ejecting, and then the drive spring pushes it back forward and  
19 loads the next round.

20 Q. Where does the gas come from that you referenced?

21 A. When you fire a cartridge, that propellant powder, it  
22 expands into hot gas, and that's the gases we're talking about.

23 Q. What is the typical firing range for an AK-47?

24 A. For a point target, AK-47s are typically used out to  
25 300 meters.

J5DKKOU5

Smith - Direct

1 Q. When you say "point target," what do you mean?

2 A. Again, I'm talking to an individual-sized target, so a  
3 person-sized target.

4 Q. What about the rate of fire for an AK-47?

5 A. An AK-47 rate of fire for an individual is typically 30 to  
6 60 rounds per minute, but, again, cyclic rate, if it had an  
7 unlimited magazine, would be about 600 rounds per minute.

8 Q. When we were making reference to the pitch on the screen,  
9 you talked about the selector switch?

10 A. Yes.

11 Q. Is there a selector switch on the exemplar?

12 A. This is the selector switch right here on the exemplar.

13 Q. Could you please show the jury how that works?

14 A. Right now, it's in the safe position, the bolt cannot be  
15 moved all the way back to the rear. If you slip -- select the  
16 middle selector, that's fully automatic, and if pressed all the  
17 way down, that's semiautomatic.

18 Q. What are some of the common uses for an AK-47?

19 A. It's a standard infantry rifle for a lot of militaries  
20 around the world.

21 Q. How is it used in that capacity?

22 A. It is used for military to engage point targets or other  
23 personnel and person-to-person combat.

24 Q. What are some of the advantages associated with this  
25 particular type of firearm?

J5DKKOU5

Smith - Direct

1 A. One of the advantages, it's very rugged. It will work in  
2 almost any condition. It's very simple for the soldiers to  
3 break down, clean, and maintain. Also, it's very cheap to  
4 manufacture.

5 Q. Thank you. You can put that one back.

6 MR. BOVE: Ms. Shields, if you could bring up --

7 THE COURT: Where is it made?

8 THE WITNESS: Sir?

9 THE COURT: Where is it made? What countries make it?

10 THE WITNESS: It was originally made in Russia. It's  
11 been made in most of the former Soviet Block countries -  
12 Turkey, Iran, Iraq, Afghanistan, United States, China, North  
13 Korea, and I'm sure other countries that I don't know off the  
14 top of my head, sir.

15 THE COURT: Does the U.S. Army use it?

16 THE WITNESS: At times, yes, sir.

17 MR. BOVE: Ms. Shields, could you please bring up page  
18 3 of 807. If you can zoom in on the pictures, please.

19 BY MR. BOVE:

20 Q. Mr. Smith, do you recognize the firearm depicted in these  
21 photos?

22 A. Yes, sir. They are PKM-type firearms.

23 Q. What is a PKM-type firearm?

24 A. It's what's considered medium weight belt-fed machine gun.

25 Q. What does it mean to be a belt-fed machine gun?

J5DKKOU5

Smith - Direct

1 A. That means instead of having a magazine that supplies your  
2 ammunition, you actually have a metallic linked belt or cloth  
3 belt that all the rounds are set inside, and that's what feeds  
4 the ammunition into the firearm.

5 Q. How do the rounds that are used in an AK-47 compare to the  
6 rounds that are used in a PKM?

7 A. The rounds in an AK-47, they're smaller, they're lighter,  
8 although they do have the same size projectile. Because of  
9 that, you have less powder, so they're traveling at a slower  
10 velocity, which gives you a reduced range.

11 Q. Are PKMs capable of being fired in anything but automatic  
12 mode?

13 A. No.

14 Q. So it's always automatic?

15 A. That's correct.

16 Q. Have you brought an example of a PKM firearm that is safe  
17 for purposes of this type courtroom?

18 A. Yes, sir, I have.

19 MR. BOVE: Your Honor, we have marked the exemplar PKM  
20 as Exhibit 906, and I offer that as an aid to the jury.

21 THE COURT: Please.

22 (Government's Exhibit 906 received in evidence)

23 BY MR. BOVE:

24 Q. Mr. Smith, could you please take 906 out of the cart.

25 How does a PKM-type firearm work?

J5DKKOU5

Smith - Direct

1 A. A PKM-type firearm actually works like an inverted AK. You  
2 have a rotating head bolt, you have an op-rod gas system, so  
3 this firearm actually works from the open bolt instead of the  
4 closed bolt like all the previous ones we've talked about. So  
5 with the bolt locked to the rear, you would put a belt of  
6 ammunition from the right side into the weapon and close the  
7 feed tray. Because this has been made safe, I can't close the  
8 feed tray.

9           Then, you would pull the trigger once the weapon is on  
10 fire. As the bullet comes forward, it strips around off the  
11 belt, loads it into the chamber. As that op-rod goes all the  
12 way home, it causes the bolt to rotate, lock into the barrel  
13 extension, and that moves the firing pin forward and fires.

14           The bullet travels down the barrel. Once it passes  
15 the gas key, the gas is ported off into the op-rod. The gas  
16 pushes on that op-rod, forcing the bolt carrier back. As it  
17 does so, that bolt rotates and unlocks, extracts, ejects the  
18 casing, travels back, spring drives it back forward, strips the  
19 next round as long as you hold the trigger down. Once you  
20 release the trigger, what will happen is the bolt will stop and  
21 lock to the rear.

22 Q. Is there a stabilization mechanism on that firearm?

23 A. Yes. There is a bipod right here.

24 Q. Could you please display that for the jury?

25           What is the purpose of that?

J5DKKOU5

Smith - Direct

1 A. The purpose is so you can steady this weapon. Typically,  
2 you would fire this weapon when lying on the ground or having  
3 it on a shelf or object that you can shoot off of.

4 Q. Does the barrel of that firearm detach?

5 A. Yes, it does.

6 Q. Why?

7 A. Due to the firing rate of this machine gun, the barrel gets  
8 hot. So that you can continue firing, it has a quick change  
9 system, so you can remove the barrel, place another barrel, and  
10 continue firing.

11 Q. What's the typical firing range for a PKM?

12 A. A PKM has a point target range of 800 meters and an area  
13 target range of 1400.

14 Q. When you say "area target range," what do you mean?

15 A. It can hit -- typically, an area is considered three  
16 minutes of angle.

17 THE COURT: Sorry?

18 THE WITNESS: It is considered three minutes of angle.  
19 That means at 100 yards, one minute of angle would be one inch,  
20 three inches would be three. So you go 200, that's six inches,  
21 and you keep working that out.

22 THE COURT: So if you have a target 200 meters away,  
23 you would raise the weapon an inch or two, whatever you said,  
24 to compensate for the distance?

25 THE WITNESS: No, sir. It's an area target. It means

J5DKKOU5

Smith - Direct

1 that the accuracy of the weapon, if you're not shooting at an  
2 individual, if you're firing an automatic mode for hitting an  
3 area, you're expected to hit a six-inch area 200 yards.

4 300 yards, it would be -- sorry, yeah, 300 yards would be a  
5 nine-inch area you would be expected to hit, and that would, of  
6 course, move on out. It's for hitting large groups of people  
7 or vehicles, is what it's for.

8 BY MR. BOVE:

9 Q. What's the rate of fire for a weapon like that?

10 A. Typically, 200, 250 rounds per minute. It can run cyclic  
11 at 650 to 700 rounds per minute.

12 Q. What does it mean to run cyclic?

13 A. That means if you just hold the trigger down, and you have  
14 an unlimited belt of ammunition, it will fire 600, 650 rounds  
15 per minute.

16 Q. What are some of the common uses for a PKM?

17 A. Typically, this is used either for point targets, for  
18 shooting at individuals, or for area suppression and combat.  
19 If you're trying to keep an enemy's infantry heads down, you'll  
20 use this type of weapon.

21 Q. What are some of the advantages to the PKM?

22 A. For its firing capabilities, it's relatively light. As  
23 long as you can link the rounds together, you can continue  
24 firing. Quick barrel change, so you don't have weapon heating  
25 up and going out of service.

J5DKKOU5

Smith - Direct

1 Q. Thank you. You can put that one back.

2 MR. BOVE: Ms. Shields, if you can bring up page 1 of  
3 Government Exhibit 807.

4 THE COURT: Let's wait a moment.

5 BY MR. BOVE:

6 Q. What is on page 1, Mr. Smith?

7 A. That is an RPG-7.

8 Q. Does the weapon --

9 MR. BOVE: Can we zoom in, please, on the picture,  
10 Ms. Shields.

11 Q. Are there any distinct features of the weapon in the  
12 photograph that you are able to identify?

13 A. I'm able to identify the trigger mechanism, the sighting  
14 system, the Venturi cone at the rear, and the rocket-propelled  
15 grenade.

16 Q. There's a white cap on the end of the grenade itself. Do  
17 you see that?

18 A. Yes.

19 Q. What is that?

20 A. That is a piezo electrode. It's a quartz crystal type  
21 ignition system for that grenade.

22 Q. What is it used for?

23 A. It is used for detonating the grenade when it impacts a  
24 target.

25 Q. Have you brought an RPG that is safe for purposes of the

J5DKKOU5

Smith - Direct

1 courtroom to help you describe it to the jury?

2 A. Yes, I have.

3 MR. BOVE: Your Honor, we've marked that as Government  
4 Exhibit 907, and I offer it as an aid to the jury.

5 THE COURT: Received.

6 (Government's Exhibit 907 received in evidence)

7 BY MR. BOVE:

8 Q. Mr. Smith, there are two parts to this exhibit; is that  
9 right?

10 A. Yes.

11 Q. Could you please show them to the jury and describe how one  
12 of these works?

13 A. This is an RPG-7. It has a 40-millimeter bore, which the  
14 rocket goes inside. The tail end of the rocket goes into this  
15 expansion chamber. And it has an alignment stud that goes into  
16 this notch right here. It has a firing mechanism right here.  
17 To fire it, you would have to load a rocket, cock the hammer,  
18 take it off safe, and then pull the trigger.

19 Q. When we were looking at the photograph, you mentioned the  
20 cone?

21 A. Yes. This back here, the section right back here is what's  
22 called a Venturi cone. It's a blast cone for when you fire the  
23 rocket, it directs the hot expelling gases.

24 Q. Is there a recoil for this weapon?

25 A. This is actually what is considered a recoilless rifle.

J5DKKOU5

Smith - Direct

1 Q. Can you describe what that means, please?

2 A. What it means is instead of having a contained cartridge  
3 that's pressing against the bolt face or something like that.  
4 This has an open tube to the rear. So when the rocket is in  
5 here, what happens is you fire, the hammer hits a firing pin,  
6 which hits the igniter on the rocket that ignites a black  
7 powder charge. That black powder charge expands within this  
8 expansion chamber and pushes the rocket forward. As it pushes  
9 the rocket forward, physics again, you have to have expelled  
10 gases going the other direction. So whatever forces of  
11 expelling gases you have going out the rear is what's pushing  
12 the rocket forward in the front, so the shooter actually feels  
13 no recoil.

14 Q. Have you brought an example of the type of round that is  
15 used for this weapon?

16 A. Yes, I have.

17 Q. Is that round also rendered safe for purposes of the  
18 courtroom?

19 A. Yes. It is a dummy round.

20 Q. Could you please take the dummy round out of the cart and  
21 describe the different parts of it to the jury?

22 A. Yes, sir.

23 This is a dummy thermobaric RPG round, 105 millimeter,  
24 basically antitank or anti-armor. The way this is designed is  
25 we have your piezoelectric quartz crystal emission system right

J5DKKOU5

Smith - Direct

1 here at the front, you have a spacing cone here inside here,  
2 the main body, you would have an explosive charge, and  
3 typically a copper disk.

4 And what this is designed is when this impacts your  
5 target, it sets an electrical signal, ignites your explosive,  
6 which liquifies that copper disk, and this distance gives you  
7 your standoff. There's a shaped charge in here of a particular  
8 shape to force all that copper down to a point. That's what  
9 allows it to actually penetrate armor.

10 Q. You just used the attorney "standoff"?

11 A. Yes.

12 Q. What does that mean?

13 A. It means you have a distance between the object you're  
14 trying to penetrate and the explosive. Because this is  
15 traveling at a velocity, it takes time for the electrical  
16 charge to go back and detonate the explosive, so you have to  
17 have a certain distance that's crushing at a known rate, so  
18 that it will actually penetrate armor.

19 Q. What are some of the other parts of that dummy round?

20 A. Right here, you'll see the alignment stud for when you  
21 actually place it into the RPG-7. Back here is where you would  
22 actually have that black powder charge and would actually cover  
23 these fins, as you can see in the picture here.

24 This picture here is actually what is the rocket  
25 motor. So the way this works is when you fire it, it detonates

J5DKKOU5

Smith - Direct

1 that black powder charge. It then launches itself out the  
2 RPG-7. As it launches out, these fins deploy to give it  
3 stabilization, and between ten and fifteen meters in front of  
4 the muzzle, it will ignite the rocket charge. That is to gain  
5 velocity, also help with stabilization. These ports here and  
6 the port in the rear are for the rocket, and these fins here  
7 are for that blast to help give it rotation and stabilization.

8 Q. Are you familiar with the term "destructive device"?

9 A. Yes.

10 Q. What does that mean?

11 A. That means any explosive, poison gas, mine, grenade, any  
12 device like that. It also means any weapon that fires a  
13 projectile via either explosive or propellant that has a bore  
14 over half an inch in diameter.

15 Q. Does the -- the dummy round that you're holding, would a  
16 live one meet the definition of destructive device?

17 A. Yes. It has a grenade on it, and, therefore, it would be a  
18 destructive device.

19 Q. What about the other part of this exhibit that you were  
20 holding up a moment ago?

21 A. The RPG-7, it has a 40-millimeter bore, which is over half  
22 an inch. 12.5 millimeters would be half an inch.

23 Q. Does that bore on the barrel of the weapon mean that it  
24 meets the definition of destructive device?

25 A. Yes.

J5DKKOU5

Smith - Direct

1 Q. So what is the firing range on one of these?

2 A. Anti-armor, this has a range of about 200 meters. If  
3 you're going for a building or group of people, something like  
4 that, it has a range of five to eight hundred meters.

5 Q. What about the rate of fire?

6 A. You can typically fire two to four of these per minute.

7 Q. What are some of the common uses for an RPG?

8 A. Common uses and what they were originally designed for is  
9 anti-armor, for going against vehicles, tanks, things like  
10 that. They have also been used by personnel firing them at  
11 either buildings or groups of people. When this grenade goes  
12 off, if it's going off against a building or the ground, it  
13 will have a blast radius of about 15 meters.

14 THE COURT: It blows a hole in a building?

15 THE WITNESS: It can. It's designed to penetrate  
16 armor, so it will definitely blow a hole in the building. It  
17 will also cause shrapnel.

18 THE COURT: How many of those rockets can a soldier  
19 usually carry?

20 THE WITNESS: They'll usually carry four to six in one  
21 package.

22 THE COURT: Four to six in a package?

23 THE WITNESS: Yeah, they will carry four to six in one  
24 backpack or package.

25 THE COURT: It limits the number of uses it can have?

J5DKKOU5

Smith - Direct

1           THE WITNESS: Yes, sir.

2           THE COURT: That's its shortcoming?

3           THE WITNESS: Yes, sir.

4 BY MR. BOVE:

5 Q. Thank you, Mr. Smith. You can put that down. I just have  
6 a couple of more questions.

7           Today, you talked about five firearms: A Glock, an  
8 MP5 --

9           THE COURT: Let Mr. Smith sit.

10          MR. BOVE: Thank you, Judge.

11          THE WITNESS: Thank you, sir.

12 BY MR. BOVE:

13 Q. You've described five types of weapons, firearms: A Glock,  
14 an MP5, an AK-47, a PKM, and an RPG. Did you do any research  
15 to find out if there's a manufacturer of any of these weapons  
16 in Lebanon?

17 A. Yes, sir, I did.

18 Q. During the course of that research, did you identify any  
19 such manufacturer?

20 A. I did not identify any known manufacturer of these  
21 particular weapons in Lebanon.

22          MR. BOVE: Nothing further, Judge.

23          THE COURT: Before Mr. Schacht begins, can I see you  
24 both at sidebar.

25           (Continued on next page)

J5DKKOU5

Smith - Direct

1 (At the sidebar)

2 THE COURT: We have the term in the indictment  
3 "destructive device." You were about to ask Mr. Smith that  
4 question.

5 MR. BOVE: I did ask. I believe I did ask, Judge. He  
6 testified that he's familiar with the definition, and that both  
7 of the round associated with the RPG, as well as the actual  
8 launcher, they each individually meet that definition.

9 THE COURT: What about the other weapons?

10 MR. BOVE: He testified -- so they were focused on the  
11 definition of machine gun, and the focus of that definition is  
12 that word automatic. The testimony is that the MP5, the AK-47,  
13 and the PKM are all capable of being fired in that automatic  
14 way, which means that they meet the definition of machine guns.

15 THE COURT: But the Glock does not?

16 MR. BOVE: It does not, your Honor.

17 THE COURT: It does not?

18 MR. BOVE: It does not, that's correct.

19 THE COURT: The others do?

20 MR. BOVE: Yes, your Honor.

21 THE COURT: Okay. Sorry.

22 MR. BOVE: Thank you.

23 (Continued on next page)

J5DKKOU5

Smith - Cross

1 (In open court)

2 CROSS-EXAMINATION

3 BY MR. SCHACHT:

4 Q. Mr. Smith, about how long do you think it took you to learn  
5 all of this expertise you have about these weapons?

6 A. I have worked almost 20 years in the firearm industry.

7 Q. You mentioned before that you did some research into the  
8 manufacture or nonmanufacture of these weapons in Lebanon; is  
9 that right?

10 A. Yes, sir.

11 Q. Did you serve overseas when you were serving in the  
12 military?

13 A. Yes, sir, I did.

14 Q. Did you serve in Lebanon ever?

15 A. No, sir, I did not.

16 Q. Were you close to Lebanon, in Iran or Iraq?

17 A. I was in Iraq, sir.

18 Q. You're aware, though, that there are many weapons, let's  
19 say, of this sort in Lebanon? Are you aware of that?

20 A. Yes, sir.

21 Q. And you're aware that some of those weapons come from the  
22 Government of Iran, right?

23 A. Yes, sir.

24 Q. And some of those weapons come from the Government of the  
25 United States?

J5DKKOU5

Smith - Cross

1 A. Yes, sir.

2 Q. And the Government of the United States gives a few hundred  
3 million dollars a year to the Government of Lebanon for  
4 weapons; is that right?

5 MR. BOVE: Objection.

6 THE COURT: Overruled.

7 THE WITNESS: I would have no expertise or knowledge  
8 on that, sir.

9 BY MR. SCHACHT:

10 Q. But you're aware, though, that the Government of the United  
11 States provides some aid to the Government of Lebanon, right?

12 MR. BOVE: Objection.

13 THE COURT: Overruled.

14 THE WITNESS: I have no knowledge as to what exact aid  
15 the United States gives foreign countries.

16 BY MR. SCHACHT:

17 Q. Not exactly, but a moment ago, in response to my question,  
18 you said that you were aware that the United States does  
19 support the Government of Lebanon, right? You answered that  
20 question affirmatively?

21 THE COURT: I don't think he did, but you asked the  
22 question.

23 Does the government -- does the United States support  
24 the Government of Lebanon?

25 THE WITNESS: Not that I know of. I know that the

J5DKKOU5

Smith - Cross

1       United States, as I said before, does at times, provide weapons  
2       to foreign countries.

3           THE COURT: At least this is not part of your  
4       expertise, is it?

5           THE WITNESS: No, sir.

6           MR. SCHACHT: I can have it read back later during  
7       summation. I'll get the transcript. Thank you.

8           THE COURT: It's not part of his expertise anyhow. So  
9       this is not why he's here. He's here as an expert.

10          MR. BOVE: Your Honor, I move to strike the questions  
11       and answers regarding foreign aid.

12          THE COURT: Motion granted.

13          MR. SCHACHT: May we approach, your Honor?

14          THE COURT: How do you know that there was no  
15       manufacture of these weapons in Lebanon?

16          THE WITNESS: I don't know conclusively that there  
17       were no manufacturers in Lebanon, but via research in  
18       periodicals, our publication library, and the Internet, I was  
19       not able to find any known manufacturer in Lebanon.

20          THE COURT: Is it part of your work to look at these  
21       magazines' specialized articles?

22          THE WITNESS: Yes, sir, it is.

23          MR. SCHACHT: Judge, I move to strike the question and  
24       answer earlier on direct examination, then.

25          THE COURT: Overruled. It's part of his expertise.

J5DKKOU5

1 BY MR. SCHACHT:

2 Q. In these magazines and things that you read, did you read  
3 where the weapons in Lebanon do come from?

4 A. Occasionally, they do mention that weapons come from  
5 outside Lebanon, but I don't have any direct source, and I have  
6 not read any direct source on exactly where Lebanon is  
7 procuring weapons.

8 THE COURT: I think I can take judicial notice from  
9 all of the newspaper articles that the public reads that  
10 there's a proliferation of weapons in Lebanon, and I think we  
11 can stop there.

12 MR. SCHACHT: Thank you, Judge.

13 THE COURT: From whatever source.

14 Anything else, Mr. Bove?

15 MR. BOVE: No, your Honor. Thank you.

16 THE COURT: Thank you, Mr. Smith.

17 THE WITNESS: Have a good day, sir.

18 (Witness excused)

19 THE COURT: Mr. Bove?

20 MS. HOULE: Your Honor, the government rests.

21 THE COURT: That means the government has concluded  
22 its case. I need to take a ten-or fifteen minute break leave  
23 the books closed on your chairs.

24 (Continued on next page)

J5DKKOU5

1 (Jury not present)

2 THE COURT: Be seated, everyone. I think, at this  
3 point, the defendant can make motions. I'd like to suggest, so  
4 we don't impose on the jury, that we postpone the making of the  
5 motions until after the defendant rests, and then the defendant  
6 will make a motion as if it's made at the end of the government  
7 case and before any defense.

8 MR. SCHACHT: Your Honor, I'm happy to do that, and I  
9 know I need to rest in front of the jury, but I plan --

10 THE COURT: So that is okay?

11 MR. SCHACHT: Yes, but I plan to rest without calling  
12 any witnesses, so we can do that today, if your Honor wishes.

13 THE COURT: Yes, okay. Let's talk about going  
14 forward.

15 Give me a moment, please.

16 (Continued on next page)

17

18

19

20

21

22

23

24

25

J5DAAKOU6

1                   THE COURT: We could be ready tomorrow morning nine  
2 o'clock to send you the charges by e-mail. We could have a  
3 charging conference at 11 o'clock. We could have the jury come  
4 back, come here at two o'clock or 2:30, 2:15 and we could have  
5 part of the closings. So, it might be better if we do all the  
6 closings and even the instructions in one day. What do you  
7 think?

8                   Who is going to give the summations for the  
9 government.

10                  MR. BOVE: I am judge.

11                  THE COURT: That means you'll also do the rebuttal.

12                  MR. BOVE: Yes, your Honor.

13                  THE COURT: Give me an estimate of how long you think  
14 it would be.

15                  MR. BOVE: I think it'll be about two hours, maybe a  
16 little bit less.

17                  THE COURT: Mr. Schact, do you have any idea of how  
18 long you'll be?

19                  MR. SCHACHT: I should be about 30 to 40 minutes.

20                  THE COURT: So, we could have the summations and the  
21 instructions delivered to the jury on Wednesday and they could  
22 start deliberating that night and into Thursday.

23                  MR. BOVE: That's fine with us, judge. Thank you.

24                  THE COURT: Mr. Schact?

25                  MR. SCHACHT: Then we would just have the charge

J5DAAKOU6

1 conference at about 11 tomorrow.

2 THE COURT: Yes.

3 MR. SCHACHT: That's fine with me.

4 THE COURT: OK. All right. Mr. Kourani, it's my  
5 practice, even though I'm sure you and Mr. Schact have  
6 discussed this, to make sure you are aware of your rights. You  
7 have a presumption of innocence which means you don't have to  
8 put in any evidence at all or you can choose to put in  
9 evidence. It's up to you and it's up to you and your lawyer  
10 together. As part of the evidence that you put in you have a  
11 right if you wish to testify or to call witnesses.

12 If you testify you will be cross-examined as any other  
13 witness will cross-examined. So, you have that right or after  
14 discussions with your lawyer, you can waive that right. If you  
15 waive that right and do not testify, I will instruct the jury  
16 that they can take no inference against you because you're  
17 exercising your constitutional right not to testify. I know  
18 you've discussed this one more time and you can tell me,  
19 perhaps, can you tell me now whether knowing all these rights  
20 you choose, A, not to put in a defense or, B, not to testify.

21 THE DEFENDANT: Yes, your Honor, I choose not to  
22 testify.

23 THE COURT: OK. Knowing all these rights, you don't  
24 have to put in a defense, right?

25 THE DEFENDANT: Yes.

J5DAAKOU6

1           THE COURT: Not to call any witnesses.

2           THE DEFENDANT: We're not calling any more witnesses.

3           THE COURT: OK. Thank you.

4           So, I will tell the jury to come in at ten a.m. on  
5 Wednesday.

6           MR. SCHACHT: Thank you, your Honor.

7           One more thing also, if you would permit me  
8 instead of doing it this an afternoon since we are not doing  
9 anything except the charge conference tomorrow, may I make my  
10 motions tomorrow prior to the charge conference?

11          THE COURT: Yes. That will be a good idea and thank  
12 you for reminding me.

13          OK. That's fine. Let's call in the jury.

14          (Jury present)

15          THE COURT: Be seated, everyone.

16          Does the defendant wish to exercise his right not to  
17 put in any testimony or do you wish to put testimony in?

18          MR. SCHACHT: No, your Honor, we are not going to put  
19 any testimony in and we rest.

20          THE COURT: So, both sides have rested which means  
21 that the evidentiary part of the case is over. Tomorrow I have  
22 a great deal of work to do with the lawyers and I think it's  
23 silly for you to come in. So, you come in on Wednesday at ten  
24 o'clock. You'll have the closings of both sides, and  
25 instructions and perhaps you'll be able to begin to deliberate

J5DAAKOU6

1 and continue your deliberations as long as you need them. So,  
2 tomorrow you're off.

3 Now, this is the dangerous part of the case for juries  
4 because you've heard all of the evidence. It's a great  
5 temptation to start putting everything together in your mind.  
6 Don't do it. You haven't finished with the case until you hear  
7 the lawyers who've spent a great time with this case and are  
8 eager to tell you what they think about the case and to sum up  
9 the case for you. And you haven't heard my instructions, so  
10 don't know what law to apply.

11 Don't talk about the case with anyone, not even  
12 amongst yourselves and don't even think about the case. You  
13 can do as much as that as possible and I'll see you Wednesday  
14 morning at ten o'clock. Close up your books. Give them to  
15 Henry on your way out.

16 (Jury not present)

17 THE COURT: Be seated, everyone.

18 Mr. Bove and Ms. Houle, I asked you at the outset how  
19 can there be an attempt with regard to Count Eight? Indeed,  
20 Count One. I'm failing to understand this but --

21 MS. HOULE: Your Honor?

22 THE COURT: Give me a moment, Ms. Houle.

23 MS. HOULE: Sure.

24 THE COURT: Count Eight charges --

25 MS. HOULE: I may be able to short circuit the

J5DAAKOU6

1 discussion of Count Eight, your, Honor because we are prepared  
2 to strike the portion of the instruction regarding attempt. We  
3 are not arguing an attempt on Count Eight.

4 THE COURT: OK. Thank you. Go back to Count One.  
5 Count One is complete. When someone knowingly provides  
6 material support or resources to a foreign terrorist  
7 organization including various ways of helping, what's an  
8 attempt?

9 MS. HOULE: So, your Honor, under the attempt  
10 framework the defendant would need only to have formed the  
11 intent to commit the crime of providing material support and  
12 then taking a substantial step. And we think that it's  
13 important that the jury understands that here because, for  
14 example, it would be sufficient under the statute for the  
15 defendant to have come to the United States and gotten  
16 citizenship here prepared and trained to commit an attack ready  
17 to do so. But not having committed an attack or done anything  
18 further than that the defendant did do more than that.

19 THE COURT: I understand. That's a legitimate  
20 argument.

21 Mr. Schact, any comment?

22 MR. SCHACHT: I have no quarrel with that argument. I  
23 just think that we need to strip down the language a little bit  
24 which I was talking with them about it. I think we are going  
25 to help your Honor by agreeing to have an abbreviated

J5DAAKOU6

1 indictment.

2 THE COURT: Excellent. OK. We'll distribute the  
3 charge will be nine o'clock tomorrow by e-mail.

4 MR. SCHACHT: When I say I have no quarrel with that  
5 argument in front of the jury, I have a quarrel with the  
6 argument but --

7 THE COURT: I understand. All right. We'll  
8 distribute this to you by e-mail tomorrow at nine o'clock and  
9 meet by 11 o'clock.

10 This case is then recessed until 11 o'clock.

11 (Adjourned to Tuesday, May 14, 2019 at 11 o'clock)

12

13

14

15

16

17

18

19

20

21

22

23

24

25

## 1 INDEX OF EXAMINATION

2	Examination of:	Page
3	JOSEPH COSTELLO	
4	Direct By Ms. Houle . . . . .	597
5	Cross By Mr. Schacht . . . . .	646
6	Redirect By Ms. Houle . . . . .	680
7	Recross By Mr. Schacht . . . . .	681
8	Redirect By Ms. Houle . . . . .	682
9	Recross By Mr. Schacht . . . . .	682
10	MARGARET SHIELDS	
11	Direct By Mr. Bove . . . . .	689
12	Cross By Mr. Schacht . . . . .	716
13	DAVID SMITH	
14	Direct By Mr. Bove . . . . .	735
15	Cross By Mr. Schacht . . . . .	767

## 16 GOVERNMENT EXHIBITS

17	Exhibit No.	Received
18	808 . . . . .	629
19	810 . . . . .	640
20	302A . . . . .	692
21	902 . . . . .	706
22	902A . . . . .	706
23	908 . . . . .	739
24	903 . . . . .	743
25	804 . . . . .	746

